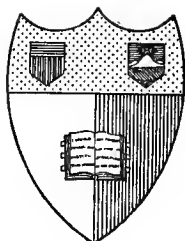


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RICHARD HENRY DANA

A BIOGRAPHY

BY

CHARLES FRANCIS ADAMS

IN TWO VOLUMES

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CONTENTS OF VOL. II.

CHAPTER	PAGE
I. THE FIRST GLIMPSE OF EUROPE (<i>continued</i>)	1
II. REMINISCENCES BY THE AUTHOR	128
III. GEORGE BANCROFT.—NEW YORK CITY RIOTS.— TRENTON FALLS.—THE SATURDAY CLUB.—“To CUBA AND BACK”	154
IV. ROUND THE WORLD	178
V. THE WAR PERIOD	248
VI. LAWRENCE vs. DANA	282
VII. THE RECONSTRUCTION PERIOD.—THE ESSEX PROTEST	328
VIII. SCOTLAND, 1870.—THE ENGLISH MISSION	350
IX. EUROPE.—DEATH	380

APPENDIX.

THE MASTER'S REPORT	389
LETTER OF MR. THORNTON K. LOTHROP	411

RICHARD HENRY DANA.

CHAPTER I.

THE FIRST GLIMPSE OF EUROPE (*continued*).

July 14. Monday. Reached the Euston Square station at about eight o'clock.

This is none else than London, none else than the capital of England; every sight proves it. As we turn into Grosvenor Square, a heraldic hatchment over a door, a coach with its panelled coats-of-arms, and its arms and crest richly wrought in the hammer-cloths, the tall footman, with broad gold band on his hat, red livery coat, white stockings and small-clothes, and the lounging *Jeemeses and Tummases* at the doors, the great extinguishers at which the link boys used to extinguish their torches, still preserved, though gas has thrown them out of use more than half a century, — all indicate the solid system of England. How familiarly the names sound to the ear, — Berkeley Square, Grosvenor Square, Hanover Square, Regent Street, Bond Street, Audley Street, to Hyde Park, into Hyde Park mall, to Hyde Park corner, with Apsley House (the Duke of Wellington's), the Wellington statue on the high column, which "Punch" hardly exaggerated at all in its extremest caricatures, Piccadilly, Pall Mall, Knightsbridge, Kensington

Gardens and Palaces, Oxford Street, and the road to Bayswater. How noble are these parks! You seem to be let indefinitely into the country. The grass is all green, no foot-dried or sun-dried spots. The trees are large, deep-leaved, and ancient. Children, women, freely walking and sitting under their shades, riders on horseback, coaches with liveried servants and emblazoned arms. Officers and soldiers making the scene gay with their uniforms. Even the postmen and telegraph carriers have uniforms. Every servant has some livery, if it be only a hatband or gilt buttons.

July 15. Tuesday. Breakfast at nine, and lay out our plan for the day. Take a 'bus through Kensington and Oxford and Regent Street, past Trafalgar Square and the Nelson Column, to Charing Cross. We sit on the outside, and Parker kindly points out the objects of interest. At Charing Cross we stop to look at the statue of Charles I. and think that here the cross was erected and the name given, when Edward bore the body of his wife Eleanor, with a great procession of priests and soldiers, from Grantham to London, taking sixteen days for the journey, and erecting a cross wherever the body stopped. Even the statue has its interest, for it was removed by the Cromwellians, and sold to a brass-founder, who promised to break it up, but produced some brass fragments, and concealed the statue, and it was replaced at the Restoration. Thence we take a look at the club houses in Pall Mall, and go down Whitehall, past Scotland Yard, the Admiralty where the navy of England is governed, and pass into a small, dull, *cul-de-sac*, with small, dull houses, and Parker says, "This is Downing Street." Who could believe it?

The centre of British power. In these unpretending, small, old buildings are the offices and official residences of the prime ministers of Great Britain. We pause in front of the old Whitehall Palace, and look at the window, out of which Charles the First went to his execution. A little farther, and we come upon the stately, splendid, new Houses of Parliament, worthy of a great nation and a great empire. We enter a wide doorway, and stand in Westminster Hall, the hall of William Rufus, the largest hall in the world unsupported by columns, with its arches of Irish oak, in which spiders cannot live, its restorations by Richard II., which has witnessed the coronations of thirty kings, and where Cromwell was inaugurated as Protector. Here have been tried and condemned Sir William Wallace, Sir Thomas More, the Protector Somerset, the Earl of Strafford, King Charles I., Dr. Sacheverel, the Lords Balmerino, Kilmarnock and Lovat; here were tried and acquitted, Somers, the seven Bishops; and here spoke Burke and Sheridan and Ellenborough at the impeachment of Warren Hastings.

No one should visit London without passing down the Thames. It gives a noble view of the city. The river was full, the tide at its height, the day clear, a cool fresh breeze over the water, bringing a sea smell, with a slight rocking motion of the boat. The Thames is wider than I expected to find it, and altogether a nobler stream. We shot under the grand bridges that span the river, so familiar to the ear, — Hungerford, Waterloo, Blackfriars, Southwark, — and landed at the London Bridge pier. We passed the stately water front of Somerset House, the beautiful gardens and buildings of the Temple, and all along

saw not only the dome, but the gallery and roof of St. Paul's, rising far above the whole city. Here again everything is on a greater scale than I expected to find. St. Paul's is higher and larger and more conspicuous, Somerset House larger and more stately, and the Temple gardens and buildings more extensive. We passed also the Privy Gardens, where Peel lived; the Adelphi terrace, where Garrick died, and saw all the while, until shut off by the bend of the river, the superb Parliament Houses, with their lofty towers. From the London Stairs we passed along Lower Thames Street, stopped a moment at Billingsgate Market to see the fish-women (though we heard no slang and saw very clean fish), and entered the Tower of London.

A stranger may be misled by the word Tower. It is a collection of buildings, all high and strongly built, inclosed in walls, with a deep trench and bordering on the river. The first object pointed out to you cannot but arrest the attention and call up the solemn reflections of every reader of English history — this is the Traitor's Gate. Prisoners of state were usually brought by water, and coming in at the outer wall gate they passed this deep, dark, low and sombre gateway, the very sight of which calls up thoughts of regal tyranny, the axe and the block. Under this gate passed, never to return, Anne Boleyn, Catherine Howard, Lady Jane Grey, the Earl of Essex, Lady Arabella Stuart, Bishop Fisher, Sir Thomas More, the Earl of Surrey, the Protector Somerset and his brother, Lord Guilford Dudley (husband of Lady Jane Grey), the Earl of Strafford, Archbishop Laud, Sir Harry Vane, Algernon Sidney, Lords Monmouth, Lovat, Derwentwater. Kilmarnock

and Balmerino. Most of these persons lie buried in the Tower, and the places of their rest, after life's stormy sea, are pointed out to you. In this Tower also were confined Sir Walter Raleigh, — and here he began his history of the world, — William Wallace, Mortimer, Lord Russell, Cranmer, the great Duke of Marlborough, Sir Robert Walpole, Lord Oxford, Wilkes, Lord George Gordon and Burdett.

“On through the gate misnamed, through which before
Went Sidney, Russell, Raleigh, Cranmer, More.

It is only musing and awed that a man of any thought and reading can walk through the grim gateway and solemn chambers of this prison, home and grave, of so much distinguished virtue, heroism or crime, the walls bearing the inscriptions cut by the despair or idleness of the prisoners, begun as it was by William the Conqueror himself, in whose days the White Tower was standing, and gray with the antiquity of eight hundred years.

The great show of the Tower is the Horse Armory. There, ranged in a line, mounted on horseback and clad in the armor of the period of each, are the kings of England, from Edward I. (1274) to James II. (1685). It is quite interesting to see the changes in the fashions of the armor, from age to age, directed by caprice, taste or convenience, and of late to see it gradually disappearing before the musketry and cannon. Many of the kings and knights have their pages and shield-bearers by their sides.

There is also the armory of knights on foot, and of soldiers of all ranks and degrees, and all so well represented by stuffed figures that at a distance they might pass for living men.

Among the curiosities you are shown the suits of

Saracen armor taken in the Crusades, trophies of all the great victories of England by sea or by land, from the Armada and Cressy to Waterloo and Trafalgar, — instruments of torture, thumb-screws, the collar, the "cravat," the beheading axe and block, the cloak in which Wolfe died, the sleeping cell of Raleigh, and various memorials of Anne Boleyn and other victims of the tyranny of early days. The Crown jewels, including the crowns of Edward the Confessor, Anne Boleyn, Edward Black Prince, the sceptres, the gloves, the regalia of the coronations.

Coming into the open air, we heard the music of the band of the Coldstream Guards, now stationed at the Tower, and after inspecting the grand Guard Room and the very ancient chapel, passed out by the Traitor's Gate into the busy streets of London, filled with the industry of the nineteenth century. Our guide, dressed, I presume, in the old beef-eaters' uniform, it was odd enough to be so, was covered with medals and bore in his body several wounds, and carries in his thigh a French bullet, received forty-eight years ago. He had medals for Waterloo, Talavera, Salamanca, Badajoz. (a Forlorn Hope medal) Ciudad Rodrigo and Toulonse.

From the Tower we passed by streets and lanes, on which were inscribed the familiar names of Minories, Jewry, Houndsditch, Aldgate Street, and Leadenhall Street. Here we stopped to look at the India House, in which Charles Lamb toiled obscure, and where every man that owned ten shares looked down upon him and was his superior, while he now gives interest to the India House itself in the eyes of millions. We passed up Bishopgate Street, and turned in under a gateway and entered a small room, plain

and unpretending, where some dozen or more clerks were writing at enormous folio ledgers. This is the counting-room of the Barings. In the back room, which is equally unpretending, in a plain box, sat Mr. Russell Sturgis, to whom I presented my letter of credit, and was received by him with frank and cordial politeness. In a few moments Mr. Bates, now the head of the house, came in from a small parlor, and I was introduced to him. He said, "Forty years ago I knew everybody in Boston." I replied, "And now everybody in Boston knows Mr. Bates." In these plain rooms is done a money business unparalleled in America, and rarely equalled in Europe. They keep no money here. All is done by paper. I was directed, with their draft, to their banker, in Lombard Street, and up Lombard Street, so famous in history, where so much of the money of the world is gathered, a narrow, winding, dingy street, I passed. There were clerks, some weighing gold in scales, some shovelling it out upon the counter with little brass shovels like those used in sugar barrels, and others making entries in books and passing and repassing papers in mysterious silence.

From Lombard Street we passed through Cornhill, Poultry and Cheapside, to St. Paul's Churchyard, and there at junctions of streets and lanes, it refreshes the mind to recall, — and one can hardly believe his eyes, when he sees St. Paul's Churchyard, Pater-noster Row, Ave Maria Lane, Amen Corner, — we stood and took the various views of the noble structure, for truly noble and great it is. We deferred the interior to another day, and again passed on. It was like walking in a dream to pass churches, houses, streets, with names so full of the associations of years,

and centuries of years. Did we not see the window through whose gratings Laud put out his hands to bless Strafford as he passed to execution, and where Delaröche paints Strafford as permitted to stop and kneel to receive the blessing? Did we not turn out of Fleet Street into Bolt Court, and stop opposite Johnson's house? I look at the windows and bring to mind his uncouth figure rolling along under that very arch into Fleet Street, where was "the full tide of human existence, constantly flowing." Here Langton and Beauclerk waked him up at night to go out upon a "lark," and he here thought and wrote and suffered and prayed and died. Did we not stop and look at St. Clement Danes, where he worshipped and repented and kept rigid Lent? Did we not see the "Great Bells of Bow," the bells of St. Mary-le-Bow, in Cheapside, with its beautiful spire by Wren, within whose sound lived all the sons of the city, St. Magnus, built by Wren, St. Mary's Woolnoth, St. Martin's-in-the-Fields, — now in the centre of London, — St. Bride's, Fleet Street, St. Pancras and St. Mildred? Did we not pass where Sir Thomas More was born, where Thomas à Becket was born (neither of the houses, though, are now standing), and the Bank of England, the greatest moneyed institution the world ever saw, the Custom House, the Royal Exchange, with its statues of Victoria and Wellington, and where more merchants congregate in a day than Venice knew in all her history, and the Mitre Tavern, and the Savoy Chapel? Did we not see the sign of Day & Martin, and look in at Longman's, Paternoster Row, a street so narrow that two carriages cannot pass abreast; and did we not pass under Temple Bar, through whose gates the king

and his troops do not pass without a stop and a parley, and a closing and opening of the gates? And was not this enough for one day? But no, we pass into the great court of Somerset House; but far more beautiful and interesting still, we turn out of the din and throng of Fleet Street, into the spacious gardens, the quiet shaded walks and the venerable buildings of the Temple. We pass down King's Bench Walk, we pass Lord Mansfield's chambers and the garden where the red and white roses were plucked, and call at McCullough's chambers to inquire for Ned.¹ A card on the door refers us to the "gardener," and in a pretty dingy outbuilding of the chapel the gardener's daughter tells us that Mr. McCullough and Mr. Dana are in Hampshire, and offers to take letters, and I leave my card and address for Ned. Thence to the chambers of Robert Ingham, a retired barrister and M. P., to whom I deliver a letter from Sumner. His chambers look out upon the Thames with a fine view up and down the river, and upon the gardens of the Temple. These gardens on the river would be delightful anywhere, but by contrast, in the heart of the city they are charming indeed. Ingham, whom every one loves, was very kind and full of interest in Sumner. Thence we passed into the famous Church of the Temple, which the verger showed us, the Church of the Knights Templars, the round tower built in 1185 and dedicated by the Patriarch of Jerusalem himself, and the whole finished in 1240, and beautifully restored in 1839 at a cost, to the Barrister Templars,

¹ Mr. Dana's brother, and former law partner, Edmund, is referred to. He had been some years in Europe, studying at Heidelberg, and was now on his way home.

of £70,000. Here lies, each on his monument, the Templar Knights, in armor; and here are the monuments to Selden and Goldsmith, and here Goldsmith lies, under the pavement we tread on, and here preached Hooker.

Again in the old streets of the city! There is a charm to me in the antiquity of the streets and buildings of the old city. It is not a grand or beautiful antiquity, but a humble and quaint antiquity. A few of the great thoroughfares are wide, but the chief part of the lanes and streets are narrow and crooked and odd, the buildings are curious and very old and very high and very dingy, and the names are more quaint than all, some evidently given in sport, and others by accident, the history of which has not survived. We took a chop at "Ned's," a famous chop-house, where we had a chop served hot — so hot that it burned my mouth — on pewter platter, with ale in a pewter mug; then in a hack, through Strand, Haymarket, Piccadilly, etc., to Parker's house, where we dressed and drove to Palfrey's,¹ 19 Regent Street, and dined quietly at his lodgings, having a very nice time, and leaving him after midnight. I engaged lodgings with him, it being as well for the benefit of his society as central and convenient. I have a chamber in the rear that looks out on Wren's old church of St. James, Piccadilly, with its clock and its bells that strike the quarter hours, faintly, as if tired out with years, in whose vaults Akenside, Sir John Malcolm and Colton are buried, and where Chesterfield and Chatham were baptized. . . .

July 16. Wednesday. . . . Having a leisure of about two hours on my bands from twelve to two

¹ Dr. J. G. Palfrey was in London at that time, collecting material for his history of New England.

o'clock, I devoted it to Westminster Abbey. Oh, the ancient, the solemn grandeur of this place! The height of its roofs, the long perspective of its aisles, the deep sombre color of its walls, the accumulation of its monuments of all ages,—there is but one thing to do, and that is to let the tears come and flow. This is what I have done, and it seems the only relief for the mixture of feelings that overpower you. It hardly seems possible that it is the work of man, and as the work of man you feel a relief in knowing that it was not made for the luxury or pride of men, but a grand dedication to the glory of God. Its roof is far higher, its length greater, its parts more numerous, its details more exquisitely wrought, than I had expected. So far as to its form. Its general effect is unspeakable, certainly upon an American, who has no antiquity and no greatness of edifices to educate him for this. . . .

In the nave, under a small slab, inscribed "O rare Ben Jonson," lies the poet the world agrees to call "rare," and here are monuments of Godolphin, Congreve, Sir William Temple, Sir Isaac Newton, Mrs. Oldfield, Major André, Spencer Perceval, and Dr. South. In this abbey are buried thirty kings and queens, from Sebert to George II., and a host of heroes, statesmen, scholars, divines, orators and poets of all ages of the history of England. They are not together, but here and there, each his place designated,—under an altar, beneath a slab of pavement you walk over, or within a tomb, or by the side of a tablet. Here are the showy, modern monuments of heroes and statesmen, and there, in that chapel, or at the end of that aisle, are the solemn tombs and recumbent figures of ancient kings and queens, of

saintly abbots, or of crusaders, and knights grim in their armed repose, and over them their corselets and shields and their worn and dust-loaded banners, and over all, and comprehending all, this greater monument, this noble, solemn pile, only worthy to be dedicated to the King of Kings and Lord of Lords. . . .

After dinner went to the House of Commons, called out Mr. Ingham, who took me into the gallery. But before entering the House, I must pay a tribute to the extent, the splendor, the richness of the entire structure of Parliament House. You enter by Westminster Hall, and pass through a gallery, where are the statues of Mansfield, Somers, Hampden, Falkland and Clarendon, and through the old crypt of St. Stephen, and through several galleries and chambers, all sumptuous and rich with mosaic pavement of stone or tile, and walls and ceiling of richly carved oak and stone and marble. All is worthy of a great empire.

This is my first view of the House of Commons, the great battle-ground of intellect and eloquence, party zeal and personal ambition, of the British Empire. There is Mr. Speaker, at the end of the long room, in his chair, dressed in his gown and long wig. The short wigs below him are the clerks. Before the Speaker is a table about twenty feet long, and eight feet wide, on which rests the mace. Below the table, an open space divides the House in two, and the members sit in rows of benches on either side of this space, the ministry and their supporters on the right, and the opposition on the left, the doubtful and neutral members shading down towards the door. The leaders sit on the lower benches, on opposite sides of the table. This table separates the chiefs of the great hostile parties that divide the empire.

The House is in committee, and the attendance thin, the matters not being of much interest. Ingham kindly points out to me the leading members: Palmerston, Sir George Grey, Sir Charles Wood, Bethell, Wortley and others, in the ministerial benches; Disraeli, Sir William Heathcote and Walpole in the opposition; and Sir James Grahame and Roebuck in the neutral benches. Gladstone, Lord John Russell, Cobden and Palmer are not in. Short speeches, rather conversational, are made by many members, one of the best in manner being by a barrister named Malins. Palmerston sat almost without a movement, with arms folded and hat over brow, probably asleep, for hours. Disraeli passed in and out several times, but did not speak. He is a striking looking man, appearing much younger than he is, and well dressed. He wore thin glossy boots, drab trousers, buff vest, and dark brown frock. Matters relating to bills in their various stages were spoken to. The vice of English society manner, the hesitation, almost stammering, was very general, but less among the leaders, the habitual speakers, those who have acquired a forensic manner early. Among those whom I heard speak, or who were pointed out to me, besides those I have named above, were the Marquis of Blandford, son of Duke of Marlborough, a church philanthropist, Lord Robert Cecil, a conservative philanthropist, Lord Goderich, son of Earl of Ripon, a radical philanthropist, Mullins and Napier, Irish members, two or three old admirals, a Gordon, son of Lord Aberdeen, Sir Robert Peel and Fred. Peel, sons of the late statesman, Sir Stafford Northcote, etc., etc. Wortley spoke pretty well. He is Recorder of London, and son of Lord Wharncliffe. Sir

Charles Wood spoke often. His manner is assuming and flippant, and he sat with his feet on the table, like a Yankee tavern-keeper. There were several divisions, when the members pass out, — “Ayes to the right; Noes to the left,” — and are counted as they pass, and the House (except gallery) is cleared of strangers.

This morning the Lord Chancellor has sent me his card to dine next Wednesday, and a note by which I could go to his private room at all times, and get a place at the foot of the throne, and have a good view of the House. My note procured me intense respect from the servants and ushers, and I got a good place. The House of Lords is a most sumptuous and gorgeous room, but I do not think anything in it is out of keeping. It is not finery, but solid, rich and costly. The Lord Chancellor (Cranworth) was on the woolsack, and on his right, on the ministerial benches, were Lord Harrowby, Lord Stanley of Alderly, Marquis of Lansdowne and the Duke of Argyll. On the left were the Earl of Derby, who leads the opposition, Lord Ellenborough and others. On the bishops' bench were the Bishop of Oxford (Wilberforce) and the two Bishops of Carlisle. There was also Lord Redesdale, and in the course of the evening Lord Cardigan, the hero of Balaklava came in. He is a tall, martial, gallant, ill-omened looking fellow. Lord Derby looks and acts the nobleman. He has a good figure, dresses well, and his countenance is intellectual, but not amiable. I heard a few words from him, and from Lord Harrowby, who is a respectable and influential old gentleman in the Whig interest, and an explanation from the Marquis of Lansdowne, who is the most influential in the

House so far as weight of character, experience and social position go. There is not only a respect, but almost a reverence for him. Lord Shaftesbury was pointed out to me, a religious philanthropist of the Exeter Hall School, certainly a contrast with some men his title has been borne by. The Bishop of Oxford spoke twice, both times shortly, but in a graceful manner, and with an excellent voice. I was sorry not to hear him in a great effort, for Mr. Everett told me he thought him one of the three orators of England.

The general appearance of the House of Lords is that of an assembly of well-bred men, who know one another, and are known by one another, where character and experience command attention and influence irrespective of forensic power. It is generally admitted that the Lords pay good attention to business, and no small part of the political, military, naval and legal distinction of the country is gathered here. The Lords have few rules, but rely mainly on their understanding with each other and gentlemanly propriety and regard for public opinion to regulate the course of conduct.

It was nearly two A. M. when the House of Commons adjourned. My walk from Parliament House to my lodgings showed me this city, in which there is no night. The bright gas is burning, the gin palaces, the clubs, the billiard-rooms, the endless drinking shops and coffee-rooms are still open. Cabs and hansoms are on the stands, or rattling to and fro; now and then a late coach with liveried footmen dashes by from a ball or rout; and up and down the pave, under the bright gas lights, — though it is now nearly three o'clock, and in half an hour the tints of

day-dawning will streak along the eastern sky, — up and down, to and fro, now pausing at a corner, some in groups, some alone, in and out of the gin shops and coffee-rooms, now talking and laughing loudly, and now silently pacing the pave in gay, flaunting summer dresses, as numerous as if it were broad noon of a holiday, are the girls and women of the town, the piteous results of modern civilization, that never ceasing stream, which flows deep and wide and strong, drawn from the little springs and wells in the hills and valleys of the country, mingling with the darker and muddier outflows of the city, and forming one great river, ever flowing, and ever plunging over the precipice into a sunless sea.

July 18. Friday. This day we devoted to a visit to Windsor. Dr. Palfrey, Mr. and Mrs. Parker and myself made the party. The day was beautiful, neither hot nor cold. Took cars at Waterloo station, and went off, through a beautiful country, past villages, churchyards, spires rising above woods, parks, villas, cultivated fields, hedge-rows and green lanes, and were set down in the ancient town of Windsor. The position of the town on the banks of the Thames, gathering about the foot of the great castle, is picturesque; the town itself is a true old English village, streets narrow and winding, houses old and quaint, with the modern additions built so solidly that in this climate they soon look old; but the castle itself towers and dominates over the whole country on its lofty site, and spreads itself out in its lazy strength and rises into majestic towers. A large body of troops are drilling in the fields below, and the shrill calls of the trumpet echo among the towers. In and out of the great covered gateways pass the scarlet-

coated household troops, and the reverberation of the drums against the walls seems to beat the breath back into your body. This is the noblest royal residence in Europe. It maintains to the eye the ancient feudal grandeur of the monarchy.

We passed through and examined the usual state apartments, which, of course, are very gorgeous and grand, the audience chamber, the ball-room, the dining-room, the ante-room, the Waterloo chamber, the guard chamber, etc., etc.; but the chief objects of interest are the historical pictures, of which there is a legion, the Gobelin tapestry of Louis XIV., and the trophies. Here are the best pictures of Charles I., Mary Queen of Scots, Henrietta, Charles the First's Queen, and their children. One room has solely Vandyck's portraits. In the various rooms are portraits of nearly all the kings and queens of England, the chief characters of continental history, and the chief statesmen and soldiers of Great Britain. There are also suits of armor and banners of all periods and trophies of Blenheim, Waterloo, Trafalgar, Agincourt and Cressy. And in one room are placed the banners which the Dukes of Marlborough and Wellington present annually to the Crown, as the service by which they hold their lands. In the midst of all this royal and feudal splendor, these military trophies and aristocratic memorials, there is a tribute to the simple power of genius which cannot but touch the heart, which demonstrates the pure power of mind. Amid all these relics and trophies stands a plain oak chair, unnoticeable for its form or size, on which is an inscription, with careful affidavits of the sheriff of the county and others, to prove its genuineness, — a chair made from an oak beam of the Kirk

of Alloway. An Ayrshire ploughman sang of "Alloway's auld haunted kirk," and immediately its very rafters become consecrated, and, wrought into another form, are placed in the sovereign's castle by the side of the chair made from the elm under which Wellington stood at Waterloo, and the shield which Francis I. wore on the Field of the Cloth of Gold, the suit of armor of Prince Rupert, and the block of the foremast of Nelson's flag-ship at Trafalgar.

The view from the terrace of the castle is beautiful beyond description. With the solid castle walls about you, the firm foundations of centuries under your feet, and the beautiful, shaded and vine-covered walks which art has made on the slopes of the walls, where you are as secluded as if in the dells of Mount Auburn, here you stand and see the distant hills, the winding rivers, the exquisitely variegated landscape of Old England, the spire of Gray's churchyard rising out of that tuft of trees, the towers of Eton College just on the outer bank of the river that a stone bridge spans a little below the castle gate; a little farther is Runnymede, and in the eastern horizon the cloud that rests over the greatest city of Christendom.

Leaving the castle walls, we entered the ancient Chapel of St. George's, Windsor, which is a striking specimen of the antiquities of this realm. Here again are effigies of knights and bishops and the stalls of all the Knights of the Garter, with the crests and banners of each from the beginning at Lady Salisbury's *Honi Soit* to the instalment of last week. Service is said here twice a day, and well attended by the people of the town and castle.

Thence across the old stone bridge to Eton, which is, in fact, one town with Windsor, separated only by

the Thames. Here were the Eton boys with their books in hand, going to or from recitation or lecture, others in their boats on the river, and farther along, on the beautiful banks of the river, under the shade of the trees, they were throwing their lines for fish, and larger groups with coats and hats off were playing at the national game of cricket. There was an open, frank and manly look about these boys which pleased me much. Under the guidance of one of the teachers whose name I forget we visited the halls and chapels of the college. The buildings look quite old and quaint, with a monastic cloistered character, and the chapel is in excellent order, with stalls inscribed to the memory of distinguished Etonians. The number of boys in the school is about six hundred, of whom seventy are educated on the foundation. This is the great school of England, where most of the nobility and gentry are educated, as well as the poorer who come upon the foundation by merit of scholarship; and nothing could have been chosen better for beauty of site and the interesting character of the buildings.

Thence, on a beautiful drive, in an open carriage, to Stoke Pogis, the churchyard of Gray. Here, at last, is reached the heart of hearts of Old England! Here is the country parish church, in the fields, under the deep shade of the trees, the manor house seen across the lawn, the ancient walls and porches of the sacred building grown over with ivy, the mounds and graves scattered all about you, and you find your way among them to the church door, and the deep, deep stillness of the scene! Oh, how one longs to lie on the turf and dream away his day; how irksome is the presence even of a friend!

The inside of the church is as odd and rambling and old as the outside, everything turning up — altar, pulpit, organ, choir — just where you don't expect it. One feature only displeases, and that is a usurpation of modern times, — the lord of the manor, Mr. Labouchere or perhaps his predecessors, the Penns, has walled off one entire transept into a great family pew, with a window and stove, like a small chapel, where the exclusive banker's son, made into an aristocrat, can have worship to himself, without danger of sympathy with or from the plain worshippers of the village. If the Tractarians do nothing else, their war upon pews and exclusive privileges in the house of God will entitle them to the gratitude of England.

Out again into the churchyard. Here is the stone with Gray's inscription to his mother. The air is scented with flowers, the natural growth of the fields. An afternoon's sun shines through the trees, the "distant view of Eton college" opens to the eye; how can one leave the spot! Even the passage out prolongs the charm, for we step over the old stile, we pass the lodge with its tiled roof and moss-grown, ivy-covered walls and its rosy-cheeked children playing at the door, and are again between scented hedges and in the green lanes of Old England. . . .

July 19. Saturday. . . . Having the afternoon upon my hands, I took coach and drove over into Belgravia, and being set down in Belgrave Square, wandered about the fashionable, still, dull expanses of Eaton Square, Belgrave Square, Chesham Place, Lowndes Square and Wilton Crescent, and saw the monotonous "Jeemeses and Tummases," with their white stockings and small clothes and laced hats and powdered hair, lounging at the doors, and the liveried

coachmen and footmen, and coaches with crests on the panels and hammer-cloths, and now and then a coronet, and the nice saddle-horses for the gentlemen and ladies, and the nice ponies for the girls, with the neat grooms in their yellow-topped boots and small-clothes holding the horses at the door, or riding at a respectful distance behind. And now and then is a hatchment over the door, and servants in full mourning, for the Crimean war has made these more common. How quiet and privileged and lazy and rich and solid all this seems!

Coming home a little before sunset, I loitered through St. James' Park. How exquisitely beautiful it is, and yet how little one hears about it! I might have missed it altogether. In the midst of London it lies, a city on all sides of it, yet twice as large as Boston Common, and no more to be compared with it than Boston Common is with Cambridge Common; indeed the contrast is more in favor of St. James' Park. Here is a beautiful lake, not edged with a curb-stone, but rippling against a margin of sand and pebbles, full of little islands dense with foliage, the grass and the roots of trees growing into the water, birds of every kind flying in the air, and ducks and geese and swans in the water, and a diversified surface of hill and mound and lawn, with thickets of trees and gardens rich with flowers, and here and there a fanciful ranger's house, or keep, and spots so rural and retired that you can neither see nor hear the city, and could fancy yourself in the midst of a gentleman's park in Hampshire; and yet this is much the smallest of the London parks — from one fourth to one fifth the size of Hyde Park, or of Regent's Park, or of Kensington Gardens; and only half

as large as the new Victoria Park, laid out for the poorer classes of the East End of the metropolis. . . .

July 20. Sunday. Rose early, and went to the communion at the abbey at eight o'clock. At this hour every Sunday the communion service is performed in the abbey. There was no choir in attendance and no choral service, but the communion office was said as it is with us. . . .

Breakfasted with Mr. Joseph Parker at two, Saville Row. Company, Parker, Grote, the historian of Greece, Senior, Palfrey and myself. Parker has been a chancery barrister, an active promoter of judicial and political reforms, author of several books and pamphlets on those subjects, and an early and strong personal friend of Brougham, who eulogizes him in his great speech on Law Reform. Parker had a note from Brougham declining to come to breakfast on account of illness, which we read. I was sorry to miss him. Grote I liked very much. He is a tall, well-dressed, well-bred man, particularly attentive to politeness, and yet simple. He appears like a nobleman. Senior and Parker are the reverse of Grote, inattentive in dress and manner; both are clever men, and much consulted by government and the political leaders, and visiting in good society. All these gentlemen are of the radical school and extreme latitudinarians in religion, and Parker seems disposed to doubt greatness or goodness in all forms. He married a granddaughter of Priestley, but she was in the country and we did not see her.

Left the table early, as I was to meet [H. T.] Parker and go with him to the Temple Church. I was not sorry to let them know where I had been and was going. [J.] Parker has always passed for

a Unitarian, but Palfrey says, "I fear he is a great deal more than that, as many of the Unitarians here are." Grote, I have some reason to think, is a downright disbeliever. I do not know about Senior. Dr. Palfrey has been evidently disappointed in his experience of the Unitarians of England.

Went with H. T. Parker to the Temple Church. It was crowded to the full, and it was with difficulty that we got a seat. I have already described this church, its monuments, ceiling and pavement, which are so rich and beautiful. The choir is of boys well trained, and the responsive chanting is well executed. The sermon was sensible, but delivered in that sing-song tone so almost universal among the clergy of the English Church. I find it very hard to listen to it. The audience, however, was very attentive, and I suppose habit had made this tone acceptable to them. . . .

At 11.30 P. M. went with H—— to the Cosmopolitan Club, a *recherché* club, which meets Wednesday and Sunday nights, about midnight, during season, and is intended to collect the choice spirits of literary and political life. Being at the end of the season, and a rainy night, but few were there. The company were the young Lord Ashburton, Reeve (the editor of the "Edinburgh Review"), Campbell, M. P. for Argyleshire, Bruce, brother of Lord Elgin, a silent nobleman who fell asleep, and one or two more. Lord Ashburton was particularly agreeable and natural, and minutely well informed as to America. Reeve is a very large man, quite corpulent, and good humored and bright. Bruce is a plain, hard-working younger son of nobility. The room is furnished with luxurious arm-chairs and sofas, and there are cigars

and soda water and liquors on the sideboard for any who choose them. We separated about two A. M. . . .

July 21. Monday. . . . Letter from Lord Campbell (Lord Chief Justice) inviting me to come down to Cambridge, where he is holding the assizes with Justice Coleridge,¹ who, he says, also desires to see me. Accepted at once, and took train for Cambridge at 12.30, and reached there at 3.30. Drove to the Bull Inn, and thence to the house where the court was in session. The hall was full of javelin-men, who are the sheriff's tenants. They are dressed in drab coats and small-clothes, with gilt buttons, and carry javelins in their hands. They are a guard of honor for the judge, which the sheriff provides at his own expense. The sheriff in England is always a country gentleman of fortune and figure. There were also bailiffs and underlings of all sorts in a state of high feverish excitement to clear the passage for "his lordship, his lordship," who was going into court, and though there was room enough for two to walk abreast, the whole passage was kept religiously clear for him, and one of them pulled me back, as if there had been a mad dog coming, and said, "Back, please, his lordship's coming." And on his lordship came, in gown and wig, a venerable-looking man of seventy-five, and passed into court. I went in and heard a few words from the counsel, and a talk between them and the judge, who strongly urged the settlement or reference of a case to arbitration, and then it was announced that the docket was exhausted and that the court would adjourn. I immediately sent my card into his lordship's private room, and in

¹ Sir John Taylor Coleridge, father of the present Lord Chief Justice.

a few moments an obsequious man in black smalls and powdered hair bowed me into the inner room, where sat the dreaded chief. He was all cordiality, frankness and kindness; was very glad I had come down; Justice Coleridge had gone over to Ely to see the cathedral, but would be back to dinner; was full in his inquiries after Sumner, of whose acquaintance years ago and his subsequent fame he spoke most kindly and cordially. He asked me to go with him to Trinity College, where the judges always lodge when they come to Cambridge, and where there was to be a grand dinner at seven o'clock, given by the Master of Trinity, who is Vice Chancellor of the university, to the judges, sheriffs, heads of college, etc., etc. He said, "My carriage will be here in a few moments, ride down with me." I accepted the invitation, not knowing the state and ceremony I was precipitating myself into. In a few moments the door opened, "Carriage ready, my lord." We walked out, and there stood the sheriff in full dress with his chaplain in full canonicals, and a double row of javelin-men, reaching to the door, and a state coach with four gray horses and postilions in livery, and trumpets braying like the "grand entrance" of a menagerie or circus company. Through this line, bare-headed, we walked, and my black frock and gray trousers were thrust into the state coach with the judicial gown and wig, the full dress of Mr. Sheriff, and the full canonicals of the chaplain, and then the javelin-men walked ahead of the horses, and in a slow walk we all went down to the gateway of the old college of Trinity. It was amusing to see the intensity of deference with which the sheriff and his chaplain treated the Chief Justice of England, and how they

colored to the eyes when they spoke, and seemed to apologize for speaking at all, and the great concern they seemed to feel that nothing should come short in the duty of profound respect. The contrast between this and the dignified simplicity of Lord Campbell's manners was delightful. He reminded me constantly of Mr. Stedman, the father of Dr. Stedman; imagine what Mr. Stedman would have been with an English education and breeding and a life of high station and honor and in full health, and those who remember Mr. Stedman can have an idea of Lord Campbell.

At the gate of Trinity the javelin-men again form a double line from the gate across the quadrangle to the door of the Trinity Master's lodge, and again the trumpets bray, and again we go through the line uncovered, and are in the far-famed hall of Trinity College, Cambridge.

Lord Campbell insisted upon showing me the lions of the university, and in a few minutes a tall, well made, dignified man, in a morning frock coat and light trousers, gloved and hatted, appeared. I should scarcely have recognized the face I had seen under the wig. It was now that the resemblance to Mr. Stedman struck me. It was an exquisite afternoon, and we walked leisurely through the beautiful gardens of Trinity and St. John's, under the cathedral roofs of trees, along the banks of the Cam, across its arched bridges, through the quadrangles, under the long rambling cloisters; it was an evening never to be forgotten. There is probably no one thing of the kind in England to be compared with the river grounds of Trinity and St. John's. I do not believe that Greece and Rome had anything so inciting to study and love of nature.

While walking towards Clare Hall, in the quaint old streets, a gentleman on horseback pulled up and bowed to Lord Campbell, and Lord Campbell stopped him and spoke to him, and then introduced me to the Vice Chancellor, who invited me to dine with the company. This was Dr. Whewell.

I went back to the Bull and dressed for dinner, for every man must go to dinner in his best in England, and reached the great hall just as the company was assembling. It was an august company, — the Chief Justice and Mr. Justice Coleridge in gowns and wigs, the Vice Chancellor and all the heads of colleges and fellows in gowns, and the sheriff and some leading gentlemen of the county in full dress and all gathered in the old, dark oak wainscoted hall of Trinity.

The Vice Chancellor sat at the head and Campbell on his right and Justice Coleridge on his left. I sat next to Lord Campbell, and next me was a Mr. Adams, the distinguished astronomer. He knew the Bonds of Cambridge [Mass.] well, and spoke highly of their observations. Opposite was Professor Sedgwick and several heads of colleges and the sheriff, etc. The dinner was elegant, and we were well served by men in livery and white cravats. In the course of the dinner a small glass of Trinity College ale was served to each guest, an ale brewed in the college and thought to be very good. At the close came the grace cup, or loving cup, or whatever else they call it. This is a tall gold cup filled with some strange compound, the concoction of which is a tradition in the college. This each guest drinks in turn, wiping the cup with his napkin and passing it to the next. It was a rich and palatable compound in which I thought I could distinguish cider, spirit, lemon, spices and toast. The

wines of Trinity cellar are very good, and were freely placed before us.

Whewell and Sedgwick were both attentive to me, and Whewell inquired after my father, whose writings he had read. After dinner we adjourned to a large room up-stairs, wainscoted with dark oak, and hung round with portraits of the worthies of the college, among whom were many of the greatest names in English history, in science, law and theology. Here we had tea and coffee, and after agreeable conversation parted, with an invitation to me to breakfast in the morning at nine o'clock.

Among the portraits and statues of graduates and officers of this college, which are in the hall and library and other rooms, are those of Bacon, Newton, Coke, Donne, Cotton, George Herbert, Cowley, Barrow, Andrew Marvell, Dryden, Porson and Byron. Thorwaldsen's statue of Byron stands in the library.

This college, which has more students than any in England, was founded by Henry VIII. In consequence of its being a royal foundation, the judges, when holding assizes at Cambridge, have always claimed the right to occupy it. This right the college has never conceded. So this ceremony is gone through with every year, — the Master sends a deputation to meet the judges, who invite them to occupy the hall, to which the judges always reply that they are coming; so neither party can lose anything by a prescription.

July 22. Tuesday. Rose betimes, and went to Trinity College to breakfast. At table were only the two judges, Campbell and Coleridge, and Professor Sedgwick. It was quite agreeable not only from the breakfast and company, but from the charm

of breakfasting in a great oaken, ancient hall, looking out upon those inimitable walks and gardens.

Over the door of the Master's lodge was a hatchment, for the Master lost his wife a few months ago.

Mr. Justice Coleridge had been down the day before to see Ely Cathedral, and was so earnest in his admiration of it and of the restorations now going on, that he persuaded Lord Campbell and me to stop and see it on our way to Norwich, and we accordingly agreed to take an earlier train and stop there.

I found that the Chief Justice travels with a clerk, marshal and butler, and each judge has a clerk and marshal with him, and for aught I know a butler.

After breakfast I went to see the famous chapel of King's College, and a noble and beautiful structure it is ; noble in design and proportions, and beautiful in richness and in the perfect finish of its details. Its entire length, about three hundred feet, is one room ; the roof, supported without pillars, is of stone, and worked into flowers and curious devices. The floor is of alternate stones of black and white marble. The windows are very large and airy, filled with stained glass. There is a beautiful screen and stalls, all of the most complete character. The union of solidity and lightness, the whole, from floor to top, being stone, and yet fancifully light and airy, is most remarkable. It produces such an exhilaration of feeling that you wish "to jump up in the air and yell," like the Kentucky ranger. Wonder and exhilarating joy divide you.

Ascending the turrets by winding steps, you walk over the stone roof and see its heavy and deep lockings and bracings of parts, showing a mastery of mechanics which this age can only admire, probably not

equal. Over this stone roof, high enough above it for you to walk between, is a roof of rafters, covered on the outside with lead. On this you can walk, secured by the high battlements, and there obtain a fine view of Cambridge.

On my way to the train I made a cursory examination of the grounds and buildings of King's College, St. John's, Queen's, Pembroke, Clare Hall, Caius (which the people call Keys), Downing, Emanuel, and the other chief buildings. Excepting, however, Trinity, St. John's, King's, Queen's and Clare, they are not remarkable; yet they have the unmistakable collegiate air, the arched gateway, the cloisters, the quadrangles, and the last named have the great advantage of gardens on the river bank. The town of Cambridge is flat, and not particularly interesting either in its history or buildings.

Took the train for Norwich, the two judges and Lord Campbell's son, who acted as his marshal, and I having a carriage together. Lord Campbell and I got out at Ely, and Sir John Coleridge went on to Norwich to open the assizes. I cannot part with Mr. Justice Coleridge without a word to express the great respect and regard with which he inspired me. He is a man of culture, delicacy, kindness and high principle. He made me every offer of service, especially in the way of letters to Oxford, where he was educated, and we had a good deal of conversation about his uncle, the great Coleridge, and the effect of his writings on the English and American mind. Henry Nelson Coleridge was his brother, and he spoke of him and of Sara with deep emotion.

Ely surpassed all my expectations, even raised as they had been by Coleridge's description. It is built

of a much lighter colored stone than the churches I have hitherto seen, its size is of the amplest, its height majestic, the number of its outlying chapels, formed in the aisles, is surprising, and you are overpowered with the thought — can this be the work of man? Did human beings conceive, plan and execute all this, so majestic, so lofty, so costly almost beyond belief, and finished in such exquisiteness of detail! There is no part slighted, and no part sham, but all solid, great and perfect.

No cathedral has been a greater gainer by the spirit of church restoration which followed the Oxford movement than Ely. It had fallen into shameful neglect, and no attempt had been made to repair the ruin caused by the Puritans, who mutilated and destroyed much that was most beautiful and valuable. Now, for several years, the restorations have gone on with great zeal, and under the direction of a religious and a thoroughly ecclesiological taste. False floors were removed, and the original pavement restored, new pavements of tiles put in; plaster roofs, with which the oaken roofs of so many churches and colleges were concealed by the Puritans, removed, and the original restored; stained glass procured in place of windows removed; walls and towers rebuilt; monuments restored; and, above all, an exquisite screen, (if I am right in the term) of white alabaster, covering the entire rear of the chancel, with scenes from the life of our Lord, separated from each other by spiral columns, in which are laid genuine precious stones. The effect is beautiful beyond description. Lord Campbell, who is not a tender man, and is, I believe, a Presbyterian, stood before it lost in admiration, and I think in emotion. He seemed rooted to the spot,

and every now and then raised his hand in a kind of devout astonishment.

I can recall no memory of the names of the kings and abbots and monks and warriors and rich donors and benefactors and learned bishops whose monuments and effigies fill the chapels, descending from an almost fabulous antiquity. This was originally a monastery, founded in A. D. 670, pillaged by the Danes in 870, rebuilt about a century later, reëstablished by Canute and Edward the Confessor, defended long against the Conqueror, made a bishopric in 1107, — and of all portions of this history there are some memorials.

I took leave of Lord Campbell, whose attentions to me were most kind and paternal, and of the Dean of Ely, who showed us the cathedral, a man of zeal with knowledge, and of Canon Selwyn, a brother of the Bishop of New Zealand, who was also very attentive, and passed the charming, deep-wooded, still deanery, under the walls of the cathedral, and through the streets of this ancient, venerable town, every part of which looks in harmony with its history and its cathedral, and, taking the train, arrived in London by the middle of the afternoon, having had a tour of not much over twenty-four hours, in which have been compressed the delights and instruction which a life in a new country could not give.

July 23. Wednesday. . . . While I was at breakfast a note came from the Duke of Argyll, offering to meet me at Stafford House at twelve o'clock.

At twelve went to Stafford House, and sent up card for the Duke of Argyll. He came down, and went over the house with me, showing me the rooms and pictures. This house was built for a royal pal-

ace, and is quite suitable for one, and has the grandest staircase, it is said, in Europe. Among the pictures are many of the old masters, and an interesting historical gallery. Allston's picture [Uriel in the Sun] is at Trentham, one of the Duke of Sutherland's English country houses.

After seeing the house, the Duchess [of Sutherland] came in, and met me with her grand and gracious manner, regretted not seeing me at breakfast, and inquired with great interest about Sumner. She was superbly dressed, as she was sitting for her picture. She has a grand, sailing way of getting over the ground, and a command of manner, while all the time her expression of countenance is amiable and even tender. There is no appearance of *hauteur*. Of course, she knows that she is at the head of the women of England, the acknowledged head of the female aristocracy of the realm, but there is no assumption and no self-consciousness. She gives you the impression that she is thinking of you, and not of herself. How well she looks for a woman who has grandchildren fourteen or fifteen years old. Her own youngest boy is younger than some of her children's children. She is not so tall as I expected to find her, not above the average woman's height, and very large; but it is the largeness of pure, wholesome flesh and blood, without any coarseness, and she moves with grace and freedom. Her complexion is still beautiful, with much remaining of the "pearly cheek" of which Mrs. Norton speaks in her dedication.

The Duchess of Argyll soon came in with her two boys in their plaids. But as the debate in the Commons on the Bishops' Retirement Bill was com-

ing off at one o'clock, and the Duke of Argyll had given me a letter to Lord Charles Russell to get me into the seats on the floor, I took leave, and went to the House, first engaging, however, to breakfast at Stafford House on Friday.

Presented my letter at the door of the House of Commons, and was soon conducted to an excellent seat on the floor, just below the bar. In all these things one sees the social power of the aristocracy. I——, who was double-first-class at Oxford, and a member for many years, could do nothing for me but to put me in the Speaker's gallery, and even this is a privilege confined to members. The Duke of Argyll gets me on the floor. The difference is, that I—— has no social claim to make, no social equivalents to offer to Lord Charles Russell, who has the charge of the seats, while the duke has, and I—— does not like to request a peculiar favor. *Moral.* Whenever one wishes to see anything in England, go under the highest auspices.

The debate was under way. The Marquis of Blandford and Sir William Heathcote had spoken. Mr. Cardwell was the first speaker I heard. I liked his manner. He was slow, emphatic and clear, and varied his manner and address so as to keep the attention of the House. Spencer Walpole spoke in favor of the bill, which was unexpected, as it was generally opposed by his party. His manner is a little too conventionally rhetorical. But he is a gentleman of the regular English school, member for a university, and carries weight, and when he became more excited the conventional tone faded, and he was more naturally earnest. Sir James Graham made an elaborate, strong speech. He is a large, heavy-moulded man,

with a large bald head, and is not an orator ; but he talks with strong sense, clearness and force, and is very attentively listened to. Gladstone closed the debate against the bill. He had the disadvantage of feeling that the majority was probably against him, but he spoke with great ability. His manner is more forensic than that of any man I have yet heard in Parliament. He has an admirable voice, with great compass and flexibility, which he manages well, a scholarly look, and extraordinary dialectical powers. Roebuck said a few words, which were clearly said, but he carries but little weight. There were a few other speeches, but not of note. Sir George Grey had a few words with Gladstone, in which Gladstone had the advantage. The bill was a special act to enable the bishops of London and Durham to resign their sees, upon their being secured a retiring pension of £6,000 a year to London and £4,500 to Durham out of the income of the sees. . . .

On the whole, I was very much pleased with this debate. The men spoke like gentlemen addressing gentlemen, and there was a presiding sense of the dignity of their position, and of what they owed to the House and each other, which was quite apparent. There was also a great deal of skill and tact shown in addressing themselves to the sense and feeling of the House, and they all spoke to the House, and not to Buncombe, and varied and adapted their manner and matter so as to keep the attention of the House. It is plain that the permanent character of the House enables men to take certain things as settled, and address themselves to what is practicable, and has the effect of giving to their judgments and positions a weight corresponding to their weight of character

and their experience. As an intellectual effort, it was worthy of the great council of the great nation. . . .

July 25. Friday. Breakfast at Stafford House. Present, Duchess of Sutherland, her daughters, Duchess of Argyll, Lady Blantyre, and the Marchioness of Kildare, her sister, Lady Mary Labouchere, the Duke of Argyll, the Marquis of Kildare, Mr. Labouchere, Lord Wensleydale, and Hon. William Howard, a younger brother of Lord Carlisle. The duchess is *an institution*, as the cant phrase is. She looked gloriously, and is so kind in her manners. Indeed, this circle, the very top of the aristocracy, was as easy, simple and natural a gathering of well-informed, well-bred people, as one will ever meet. So far as I have seen the aristocracy, I find them the easiest people to get along with possible. . . .

To-day Lord Wensleydale was to be installed as a peer, and I went to see the ceremony. Crossing the anteroom, I met the Duke of Argyll, in full robes and ermine, hurrying along to find Lord Willoughby d'Eresby, the Lord Great Chamberlain. He stopped and gave me in charge of an usher, who put me at the foot of the throne, where I could see all the ceremony. The Lord Chancellor sat on the woolsack with a three-cornered cocked hat on his head. A procession, consisting of the hereditary earl marshal of England, the Duke of Norfolk, the hereditary Lord Great Chamberlain, Lord Willoughby d'Eresby, the usher of the black rod, and the Garter king-at-arms, appeared, all in ancient costumes of feudal traditions, bringing with them the new peer, and two peers who acted as his proposers, the Duke of Argyll and Lord Lyndhurst, all dressed

in scarlet robes, lined with ermine, and bareheaded. They passed once around the hall, and then advanced to the woolsack, and presented the letter-patent to the Lord Chancellor. He bowed, and directed them to the table. At the table the clerk of the House read the patent aloud, creating James Parke, etc., etc., Lord Wensleydale, with remainder to the male heirs of his body (of which the old gentleman has none), and then administered to him a series of oaths, one of which is that he abjures all claims of James III. to the throne of England. He then goes, attended by his two friends, to the seat of the junior barons, which is on the upper row of benches, and sits down and puts on a three-cornered hat and lifts it and bows to the Lord Chancellor, who raises his hat in return, and the new peer is acknowledged and installed. This ceremony, the Duke of Argyll told me, is as old as the peerage.

From this, I passed to the House of Commons, and got a seat on the floor again, below the bar, and was in good time, for in a few moments Disraeli rose. There was a full house, for it was known that he intended to attack the government for its little work and its many abandoned measures. His line of remark was to take up each measure the government had introduced, show the importance they attached to it, or its real importance, and then that it was abandoned. It was not considered by his friends as one of his best efforts. The country had been through a war, had got a reasonable peace, no party was prepared to take the government if the present party was defeated, and he spoke to no practical purpose, and without hope of any result. I was glad to hear him, however, as I could gather what he might

be in an exciting debate. He is evidently a master of worrying and tormenting satire and invective, being all the while cool and deliberate himself. His attempt at the close to give a philosophical definition of conservatism and progress, as applicable to the state of things and the condition of parties now in England, was a failure.

Lord Palmerston replied in his usual easy, self-possessed, nonchalant, adroit fashion, with hat in hand, and a drawing-room manner.

The members all sit with their hats on, in the Lords as well as in the Commons (except the bishops, who wear the episcopal dress), and take off their hats when they address the chair, and clap them on again as they sit down.

The cries are "hear, hear." Sometimes a single member calls "hear, hear," to direct attention to a particular expression, and the tone in which he utters the words indicates his object, which may be either approbation, doubt or derision. Sometimes the cry comes from a great number, as when a speaker has made a good hit, or they wish to respond to a chord touched, and if the cries are long continued, loud and general, swelling into a body of sound, they are called in the reports "cheers;" but regular cheers, the simultaneous hurrah, are not given.

July 26. Saturday. Pursuant to appointment, I met Lord Elgin at the Athenæum at twelve o'clock, and he took me to the British Museum. As he is a hereditary trustee as well as a peer, we were treated with every attention, and had facilities for seeing what was to be seen. It is quite out of the question to describe this noble institution. It is gigantic in its size, its collections and the munificence with

which it pursues its ends. Besides the enormous library, there are the Elgin marbles, the Lycian and Phigaleian marbles, and a museum of natural history from all parts of the globe, the Portland Vase, Egyptian, Assyrian and Etruscan collections, collections of all manner of antiquities in art, and everything bearing upon history, — I was about to say, but one may as well say, — *everything bearing upon anything*. There I saw great curiosities of literature, such as the oldest printed book in the world, very ancient and most beautifully illuminated manuscripts, and autograph letters of great men innumerable.

From the Museum, taking leave of Lord Elgin, I went to the Zoölogical Gardens in Regent's Park. These are exceedingly interesting and quite beautiful. There is ample space, and you wander along garden paths, and by pretty ponds, and come here and there, not in one region but scattered about, upon the yards or pens or cages of extraordinary and rare beasts and fowls. These creatures are housed and provided as nearly as possible after the manner of their native country. The ground is prepared either with sand or rock or mud or grass, with soil moist or dry, according to the native habits of the species, and the trees or shrubs of their native regions are grown for them, if it is possible to do so. Some of the aquatic animals have ponds of clear water, and some have standing pools covered with green scum. It is a relief from the usual menagerie to see the ample space and verge of these creatures.

Among all these varieties of animals I was particularly struck with the eye of a vulture. The "vulture's eye" of the Scripture I could well appreciate. He was perched on a naked limb of a tree, and his

small, keen, piercing, watching eye, that flitted like heat lightning, seemed made as an emblem of watchfulness. There was, too, a nice little creature, called the paradoxure, a little, timid, trembling thing, with tears in its eyes, that I fell in love with, nor was my fancy destroyed by seeing it eat a pretty large piece of raw meat the keeper gave it. We have to allow for like things, in our fancies, with the fair and tender of our own race.

To-day I also visited the Exhibition of the Royal Academy. It is very large, and the attendance was great. The pictures were chiefly portraits, and did not much interest me. There was one picture, however, from the effect of which there is no escaping, that is, a picture called "The Scape-goat." I do not speak of it as a work of art. I am not a judge, and I do not know whether the landscape, which seems so untrue to nature, be possible or not. But the conception and design is most painfully impressive. The Scape-goat, its horns bound with a scarlet fillet, driven from the Jewish camp, faint with hunger and long travel and parched with thirst, has reached the shore of the Dead Sea, and finds its waters salt; its last hope is gone. With its hoofs buried in the salt, barely able to stand, with weariness it turns to the spectator an inexpressibly piteous look of woe, which no heart can resist. The dreariness of the scenery, and the last flush of sunset on the distant bare mountains are in harmony with the painful subject. Typical of our Saviour's sufferings and desertion, and suggesting the thought, the unsolved and insoluble problem of misery to the innocent of which the world is full, this picture, for its effect, can never be forgotten. It has attracted

great attention. I do not know what is said of it by the artists. . . .

July 27. Sunday. Dr. Palfrey and I invited Parker to breakfast early, as I was to go to St. Barnabas to service with Parker. In the course of conversation Parker said he often went into the parish churches to see the people at prayers, and into the Roman Catholic chapels to see the sacrament administered to the poor people; it interested him to see their earnestness, for said he, "You know, Palfrey, your religion and mine is an iceberg." This was excellent, and I should not wonder if Palfrey began to have an inkling of this himself.

Went to St. Barnabas with Parker to the litany and sermon, which is at eleven o'clock. This is a thorough-going, working, earnest church, after the Oxford school. The seats are all free, they have a large company of clergymen, who live in collegiate buildings adjoining the church, and keep school there daily for the poor, and there are, at least, two services daily, with separate litany services, and communion on every holy day. On Sundays they have the communion at seven o'clock, morning prayer at nine or ten, litany and sermon at eleven. Communion again at noon, evening prayer at five, and evening prayer and sermon at eight. This enables all classes and conditions of men to go to church at least once. All these services are well attended, some of them crowded, and chiefly by the middle and humble classes. It is very gratifying to see the throng at the Litany service, the earnestness of the people, and the air of work and reality there was about the whole institution.

On one public occasion the Duchess of Sutherland

drove down in her coach with a fashionable party, and being told that the church was quite full sent her servant to the rector, Mr. Bennett, with the Duchess of Sutherland's compliments, etc. Mr. Bennett, with due respect to her rank, came out in person and said, "I fear you will not find seats, we are not respecters of persons here."

"I understand you," said the duchess, and had the good sense to be pleased.

It is the free sittings, the frequent services, the hard workings in charities and religious duties, which must save the Church of England. Wherever I have seen these the church has prospered. But the privileged seats of the great and rich, the locked pews, the infrequent services, detach the earnest and the poor.

All the services at St. Barnabas are intoned and choral, the congregation joining in very generally. It has the effect of congregational music.

In the afternoon went to the Abbey. How glorious, how subduing is this place! Its majestic proportions, its sombre hue, its richness, its venerable antiquity, affect the mind as no other place does. I was a few minutes late, and found not only every seat occupied, but the passageways filled with men and women standing. It was truly a vast congregation, for the seats fill nearly all of the two transepts, and as far as the first screen of the nave. The service was in the cathedral fashion, intoned by the clergy, and sung responsively by the choirs. The effect of the Amen, at each close, pealed through the arches by the grand organ, and uttered by the voices of both choirs, was truly grand. But quite as affecting, so much so that I could only let the tears come and fall, was the sight of this congregation, mostly of

the humbler people, whom the freedom of the seats and the greatness of the place draw together, with their generally devout attention, contrasting with the grandeur and richness of the house and costly taste of the music and the statues of departed greatness that stood about us, Peel, Canning, Chatham, Nelson and the older statesmen, heroes, and scholars and saints of ages gone by.

Dr. Wordsworth, a canon of the Abbey, preached. He is a pale, earnest-looking man, preached with seriousness and force, and was very attentively listened to. His sermons are printed for cheap circulation in the city, as he delivers them each Sunday afternoon. . . .

July 28. . . . H. T. Parker took me to see the famous wine vaults at the London Docks. The first is the East Vault. It is a great subterranean area, built up of stone, supported by stone arches, over which rolls the business of London. Its extent is eleven acres, all without daylight, lighted by lamps at intervals, like the streets of a city. It is laid out in streets and cross alleys, all of which are numbered, with the casks ranged on each side of the passages. You descend a flight of stairs from the dock, present your order from your wine merchant to taste a certain cask, a guide is furnished you, and each of the party takes a torch in his hand, as if you were exploring the Mammoth Cave of Kentucky. The air is damp and rather close, although there are ventilators at intervals. The effect is striking when you see the flare of the lights of another party crossing some street in the dim distance. The guide takes you to the cask upon your ticket, taps it, and gives you a glass full, and for a fee shows you round the vault.

The tasting is usually a form. There are eleven acres of port wine! Thirty thousand casks!

We went next to the West Vault, which has four acres, all of sherry, and to the St. Catherine's Dock, which has six acres of various wines.

At the same time we had an opportunity to see the immense commerce of London in these docks, where the ships are stowed in so close that it seemed to me impossible to get them out, unless by beginning at the outermost.

Took a chop at Joe's, Finch Lane, with a draught of ale, thence to Barings and Lombard Street—found papers and letters from home. Then to lodgings to read letters and refit a little, and thence to Stafford House to hear Mrs. Webb, the colored woman, read "Uncle Tom" dramatized.

The Duchess of Sutherland, to whom Mrs. Webb was commended by Mrs. Stowe, kindly let her have Stafford House for a morning reading, and great efforts were made to get her a good company. Many would go to see the House, its staircase and pictures, and others because it was fashionable. The tickets were put very high, in English fashion, so that the mass could not go. The company was pretty large and quite fashionable, with a sprinkling of Americans. The seats were arranged in the great hall at the foot of the staircase. The great duchess sailed down the staircase, like a light cloud, alone, and took a seat in the front row. Several of her family were there. I did not present myself, as I was there not as a guest, and sat with Palfrey and the Parkers, with Mrs. Farrar near us.

The first reading, chiefly of the humorous parts, was very well; but she cannot imitate a gentleman's

voice. She can only read the woman, the child, or the coarse, deep bass of the vulgar man. I had fears of her success.

There was a recess of ten or fifteen minutes, during which refreshments were served. The duchess came round, past every one else, and gave her hand to me, and insisted on my taking a front seat. I declined decidedly. But she desired it again; so I made no scene about it, though it was against my taste and judgment, and went forward and sat between her and Lady Palmerston, to whom she presented me. . . .

The last reading was more successful. She took pathetic parts, the conversations of Eva, the sufferings of Tom under Legree, the story of Cassy, etc. It was well done, and the effect irresistible. I had to keep my hat over my eyes.

After the readings closed, came refreshments again. The duchess introduced me to the Earl of Shaftesbury, the Hon. Arthur Kinnaird (brother of Lord Kinnaird, and an active evangelical philanthropist and M. P.) and Hon. William Cooper, son of Lady Palmerston. Lord Shaftesbury invited me to visit him at his country seat in Dorsetshire, which I was obliged to decline, and sent a message to Sumner, expressive of his admiration and respect. Kinnaird I established a relationship with, for when introduced he asked if I was of the family into which his great-aunt, Hon. Helen Kinnaird, married, and I engaged to dine with him in Hertfordshire on Friday.

Dined at the Marquis of Lansdowne's at Lansdowne House, Berkeley Square. This is a princely residence, the grounds enclosed, being several acres, in the very heart of London, where to buy land it

must be covered with gold. The house stands back, in the seclusion of trees, with a lawn and walks and flowers. The style was in the extreme of high life. Footmen in full livery, with powdered hair, and the company the best. Lord Lansdowne wore the broad blue ribbon of the Garter across his breast, under the coat, over a white waistcoat. Earl Fortescue, of an ancient noble house, and in his youth a very handsome man, and reputed to have been a favored lover of Pauline Bonaparte, wore a dark blue coat, with spangle buttons, and the ribbon of the Garter over a white vest. All wore white cravats, except two gentlemen, who wore black cravats with lace edges and white vests. The only ladies were Lady Shelburne, wife of the Earl of Shelburne, Lord Lansdowne's eldest son, and, as there is no Marchioness of Lansdowne, mistress of the house, and her sister (daughters of Count Flahault), both in full dress. The gentlemen were, the Marquis of Lansdowne, Earl Fortescue, Sir William Fenwick Williams, the hero of Kars; Sir Baldwin Walker, a naval hero of some action,¹ I don't remember what; Hon. Colonel Percy Herbert, son of Earl Powis, one of the Crimean heroes; Lord Lyndhurst, Lord Shelburne (son of the Marquis of Lansdowne), Kinglake, the author of "Eothen," the Attorney General, Sir Alex. Cockburn (which is called *Coburn*), Lord Montague, Mr. Senior and Sir Henry Holland. I sat between the Attorney General and Sir Henry Holland, who were both very agreeable. The Attorney General is clever, adroit, and an excellent popular orator, and a *good fellow*, though not thought to be profound or learned. Sir Henry Holland is a distin-

¹ The capture of St. Jean d'Acre.

gnished physician, one of the court physicians, and made a fortune, and was created a baronet, a rank he is quite able to sustain. He married a daughter of Sydney Smith. General Williams is a tall, handsome man, with light mustache and a little bald. He looks like Horatio Bigelow. Sir Baldwin Walker seems to be thought highly of. I had a good deal of talk with Colonel Herbert, who is a very young man for his rank, having been quartermaster-general of the whole army in the Crimea in the latter part of the war. He has brought away the highest honors, having been at the Alma and Inkerman, and appointed quartermaster-general for his established character for energy and talent. He reminded me constantly of Frank Parkman, the author of "Pontiac." He is just what Frank Parkman might have been if he had had fine health and luck and honors and active life from a boy up. He is a fair specimen of the healthful, clever, dashing, lucky, brave youth of rank and fortune. He is to have a reception in Shropshire, his father's county, next week, on his return from the Crimea, and has been elected M. P. for Ludlow. Lord Shelburne is an ordinary, respectable young man of good feeling and fair sense and manner, but not capable of maintaining the marquisate with the *éclat* his father has given it. Earl Fortescue is a choice specimen of the handsome, high-bred aristocrat of past middle life.

I had a long conversation with Lord Lyndhurst upon America, for he always claims the honor of being a Boston boy, and on law reforms, politics, etc. He is a vigorous-minded old man. He is quite infirm, although he keeps up appearances bravely. When he attempted to rise from his chair to take

leave, I offered him my arm to raise himself by, and I found it required all the strength of one arm and of his cane to get him on his feet.

I find every one in England expressing strong interest in the coming presidential campaign, and full of inquiries about it, and upon the relations of slavery to our politics and institutions. I have had several opportunities to indoctrinate their leading public men on this subject, and have availed myself of them. . . .

July 29. Tuesday. . . . Next I visited the great cathedral of St. Paul's, which I faithfully examined from the crypts to the cross, with the whispering gallery, the geometrical staircase, the clock, the library and the ball.

The cathedral is large, cold, costly, and, to my mind, without character. It is neither religious nor profane. It is neither Christian nor Pagan nor Sarcenic. The design is no doubt good of its kind, but the idea is not religious. It gives me no grand or solemn impressions of antiquity. It is a large, elegant, domed structure for the reception of monuments, with a choir at one end for divine service. The dome is beautiful and said by many to be better than St. Peter's. . . .

Returning from St. Paul's took a carriage, and left cards at Lansdowne House and at Stafford House and on Lord Wensleydale. . . .

To-day I was invited to dine at the Star and Garter, Richmond, by George Peabody, the great American banker. The Star and Garter, Richmond! How full of associations are these words. The hill, the park, the world-known inn! It was to be a party of Americans. Henry Parker and I went out

by the train several hours before, so as to have time for the hill and park. The day was beautiful, a clear, distant prospect, and a mild sky. We walked in the park, and sat on the hillside, enjoying the delightful air and prospect. A boy points out the spot which Thomson made his favorite seat; and well worthy is it of his choice. Under the shade of deep-leaved trees on the hilltop there is spread before you a purely English prospect of richly wooded, richly cultivated, moderately undulating country, sprinkled with church spires, towers, mansions, villages, streams and cottages. . . .

After dinner Howe, Parker and I took an open carriage and drove in to London. I shall never forget the charm of this drive. We had dined well, we had seen Richmond, the night was bright starlight, we were on classic ground, with a fresh night air, fast horses, a smooth hard English road under foot, easy reclining seats and beautiful scenery on all sides crossing and recrossing the Thames, passing hedges, villages, church spires, mansion houses, parks at every turn, and then rattling over the pavement of the still brilliantly lighted West End.

July 30. Wednesday. Notice had long been given that the Queen would review the troops at Aldershot to-day, and as it was to be the largest collection of troops known in England since the battle of Worcester, and I could see the Queen besides, I determined to go.

The day was very hot and the sky clear and the roads as dusty as the hard and well-watered English roads can be.

The troops are encamped at Aldershot, some under canvas, but chiefly in permanent camps of wooden

huts. The total number in camp is a little short of twenty-five thousand. I came on the ground early, and went about the camps, looking into the tents and huts, and getting as good an idea as I could of the ordinary life of the common British soldier. Returning to the road to find my way to the village for a lunch, I met the wreck of the 11th Hussars, Lord Cardigan's regiment, which was nearly destroyed in the celebrated charge at Balaklava. They had ridden eighteen miles that day to be present at the review, and looked dusty and war-worn. Soon after I saw a general rushing of the people towards the roadside and a looking down the road, and then came a guard of twelve dragoons, at a quick hand gallop, and then a carriage; and, following the crowd, I came to the road just in time to see the royal carriage with its six horses and postilions and outriders dash by. In it was seated her majesty, dressed in the common hat and riding-dress of an English lady, and Prince Albert in a suit of black. Albert is tall, rather full, and handsome. The Queen is short, with no particular air, and I had not a good view of her countenance, as it was partly averted. Then came other carriages, with the royal children and household, and the whole cortége was soon past.

Lunching at a wretched inn temporarily got up to meet the exigencies of the camp, I followed the crowd to the great field, where the review was to take place, and was in season to see the several corps come upon the ground, which was, after all, the prettiest sight of the day. They came from the north and south camps in various bodies, and by various routes, some over the hills and some up the valleys, with their different uniforms and several bands of

music, artillery, horse-rifles and infantry, making an exciting and animating scene. First of all, and the observed of all, came the Highlanders, with their picturesque dress, the bonnet and waving plumes, the kilt and philibeg, marching to the wailing bag-pipes, all so full of gallant and dramatic associations. Then came the various regiments distinguished in the Crimean campaign, the 23d Welsh Fusileers that suffered so dreadfully at the Alma, the 88th Connaught Rangers, the 93d Highlanders that received the Russian cavalry in line at Balaklava, and then the dark green rifles, and the dashing Hussars with their flying scarlet jackets, and then the formidable horse artillery, looking so full of work, and then the less distinguishable regiments of the infantry line. These masses gradually formed themselves into two long lines, the front line consisting of the Crimean regiments, and the rear of those not engaged in the war. All the men in the Crimean regiments, except here and there a new recruit, wore the Crimean medal. On the hill were gathered the dark squadrons of horse artillery, which every now and then, as the queen left the pavilion, and as she came upon the field, poured forth their heavy, ringing discharges, and lighted the dark background with their smoke.

I obtained a good situation at the corner of a lane, where the cortége must turn, and saw the Queen and her staff come upon the field. Her majesty rode between Prince Albert and the Duke of Cambridge, and wore a scarlet jacket, with the military order of the Bath across her breast, a black riding-hat, and the plumes of a field marshal. She does not look well on horseback. She is short, a little high shouldered, and in a scarlet coat and felt hat, riding be-

tween such tall men as Prince Albert and the Duke of Cambridge, both in the same uniform of scarlet, she looked rather squat and dumpy, and seemed to me to be a timid rider, — altogether quite different from the gallant, cheerful, graceful figure which the “*Illustrated News*” has since presented to its readers.

The Queen rode down both lines, the bands playing, and the troops presenting arms, and the artillery firing from the hill. Then she took her place in the centre of the field, and all the troops marched by her by brigades. The royal suite consisted of the Queen, Prince Albert, the Duke of Cambridge, and a few others mounted, and three open carriages with the royal children and the ladies of the household. As each brigade reached the royal stand its band filed off, and stood opposite the Queen, and the brigade passed between them and the Queen, marching to their music; and when the brigade had passed, its band fell in to its rear, and the band of the next took its place. The music was very lively, especially the heavy roll and double beat of the drums, at the turn of each stave in the tune, almost taking the breath from your body. One band played the “*Soldiers’ Return*” with striking effect. After this came some manœuvring and firing, which I did not wait to see through, as it was getting late, and the trains would go very full.

Aldershot being far from London, the crowd was not very great, though it was considerable; and there was a large turnout of the neighboring gentry, who came upon the ground mounted, attended by their grooms, or in their open carriages, with their families, and a hamper behind, with the champagne and sandwiches, which they ate in the carriages. There was a

fine display of buxom, wholesome English girls, mature women with open countenances, white teeth, clear complexions, and a happy and good sense look, and chubby boys, at home on vacation, with the universal black hat, turn-over white collar, red cheeks and square, downright manly look. Here were also great numbers of the peasantry and cottagers, the humble rustic poor of England,—many in their hob-nailed shoes, frocks and caps, and the women with the look of generations of labor in their countenances, from which it would seem to require generations of wealth and leisure to produce the look and air of a lady.

Reached London at night and found, to my great regret, that I had missed a visit from Gladstone, who had called in person and left word that he was to leave town that evening for Wales, to spend the summer. So I shall not make his personal acquaintance after all, the man in all England I most desired to know.

July 31. Thursday. This day I devoted to the Crystal Palace, in company with nearly nine thousand persons. The weather was beautiful, the air mild, and nothing could be more favorable. I do not believe the world now has, I doubt if the world ever had, a spectacle of the kind equal to the Crystal Palace. In the first place, it is placed on high ground so as not only to command a noble view in all directions, but to give to the gorgeous group of buildings, with their terraces and sloping lawns, a majestic and dominating aspect. It is in vain to attempt to describe this exhibition, or institution, or whatever it may be called. The buildings are all of glass, in iron frames, lofty, airy, elegant, stately, rising “like an exhalation,” and almost breathing with life, and

seeming as if at any moment it might melt into air, into thin air, and leave not a rack behind. The interior is enriched with every variety and curiosity of art and nature, of all ages and all localities. For each is a court on a floor of the great temple, and each complete in its kind. For instance, there is a house built and furnished precisely in the style of Pompeii, of the genuine materials, and as you recline on the couch, at the table of the open dining-room, its wall enriched with costly cuttings of stone and its floor inlaid with marbles of all colors, and at the door is the small recess where the slave stood, or may be was chained, the illusion is almost complete.

In certain parts of the palace are spacious restaurants, where the thousands of daily visitors can lunch. At a fixed hour the whole company evacuate the buildings and gather on the parterres and terraces and in the walks to see the play of the fountains, which play for a few moments only, affording a spectacle of more than Oriental splendor. Then comes the music of the bands, the movings to and fro of the vast multitude, the glorious prospect in all directions, and the still almost unreal splendor of the palace, the centre of all.

This is the daily spectacle, this the daily company, in good weather and in summer that this prodigious capital of this great empire sustains. The crowd was mostly of the class below what is called the "middle class" of English life, the poorer classes, but above the abject, degraded poor. It gave some pleasure to the moral sense to know that for the very low prices charged here, putting the whole within the reach of all but paupers, the poorer and humbler children of toil, of narrow means, of confined experiences and

meagre imaginations, can have opened to their view a magnificence, a splendor, which the wealth of no monarch can ensure him, nor the imagination of the most costly and favored culture exceed. . . .

August 1. Friday. Letters from home again. All well. Very hot in Boston, very hot here too, and fine, clear, sunny weather. At four P. M. called at Mr. Kinnaird's, and went with him by rail to his country place, West Farm, in Hertfordshire, to dine. Our company down consisted of Mr. Kinnaird, Hon. Philip Bouverie, younger son of the Earl of Radnor, a Swiss gentleman, engaged on some agricultural embassy, and myself.

We stopped at Trent Park, the seat of Mr. Bevan, a banker. It is an exquisite place, the house, with its large halls and drawing-rooms, windows opening to the floor, and looking out upon the park, the smooth lawn with turf looking as nice as cake, sloping to a river bank with a deep wood behind, and the exterior of beautifully tinted stone, all in repose, and in the quiet taste of England. In a field near the house, Mr. Bevan, dressed in a suit of white flannel, with canvas shoes, was playing cricket with his sons, who were at home from Harrow on vacation. Kinnaird and Bouverie stopped, and had a talk over the last cricket match between Eton and Harrow.

This was thoroughly English. Bevan is the son of a banker who made a fortune and bought Trent Park and entailed it on his son, who after a school and university education succeeds to the banking house, from which he supplies his revenues, and after a day in London comes down to his park by the train and plays a game of cricket with his boys before the seven o'clock dinner.

Now Kinnaird and Bouverie are both Evangelical Low Churchmen of high repute for active piety, their houses the rendezvous of preachers and tract distributors, making prayers in their families, etc.; but they are up to all the sports and manly exercises of England. The interest they took in horses, and their quick sight of their points, was amusing, and in talking over with them the sports of England they asked me if I had ever tried running in a sack. I had not, to be sure. They had, and it was great sport. The last race they had was with Villiers, but Villiers could run in sacks no longer, as he had just been made Bishop of Carlisle. At dinner, too, Kinnaird and all his guests, who were of the strict school of Evangelical piety, drank wine and ale, and talked of sports and war as freely as of the state of the church. . . .

August 2. Saturday. Took boat with H. T. Parker for Greenwich. On our way down passed close to and had a good view of the monster ship building by Scott Russell.

Lunched at the Ship Tavern, Greenwich, and, after lunch, visited the hospital. It is a noble building, or rather collection of buildings, fit for a palace; and here, under the shade of these deep porticoes and colonnades, and up and down these neatly cut walks, recline or lounge, walk or hobble, the veteran invalid seamen of Britain's navy. I know few more interesting sights than these unmistakable old tars, with thoroughly salt countenances, dress, gait, a few yet lingering who fought with Nelson, many who served under Collingwood, and many more wearing medals for Navarino and St. Jean d'Acre. I talked with one who had sailed under Collingwood. The Thames

lies before them, and they amuse themselves with watching and criticising the manœuvres of vessels passing up and down; but the spread of steam must vex their honest souls not a little.

In the great hall are portraits of the chief British admirals, from Nottingham, Sandwich, Howard and the older heroes to Rooke, Shovel, Captain Cook and Howe, Exmouth and the heroes of later days. There are also great staring red pictures of the chief sea-fights which have given England her marine supremacy. Many of these look as if they were painted for the sailors. The most interesting relic is the coat and waistcoat worn by Nelson at Trafalgar, with the bullet hole through the shoulder, and the stains of blood discoloring the white vest. These lie under a glass case. How interesting is everything that pertains to Nelson! He was a true hero, and no man in British history carries with him so intense a personal interest.

On my way back to London I stopped at Wapping, and went through the tunnel and back, and amused myself a while by walking among the close lanes and byways of this nautical region. The tunnel is a useless thing, a dead failure. Few persons go through it, as the depth requires you to pass down, and up at the other end, in long corkscrew flights of steps, while the passage is damp and gloomy, when little steam ferry-boats put you across, in open air, in half the time. Still, it is somewhat visited as a curiosity, and little stalls are kept at intervals, where trinkets and sketches are sold, and there is a restaurant or two. I bought a small glass, with views of the tunnel, and asked the girl if she did not take cold staying there. She said, "No, sir, we get used to it;" but I observed she had a bad cold then.

August 3. Sunday. Went to church at my favorite place, the Abbey. There is no place like this. Here, again, was a crowd, every seat full, and many standing, and all having the appearance of devout attention. The service was choral, as usual. The best thing is the effect of the grand Amen at the end of each prayer or psalm, deep, long-drawn, swelling, filling the vast aisles and roofs, and dying, dying away in the recesses. There is something peculiar, enchanting, in the effect of the clock chimes, which every quarter of an hour fill the air with a mild soft music, a short strain, that comes no whence and goes no whither, but seems as if the general air were speaking.

The English chants and tones, as they are now generally practised, have no character. They take no hold on the imagination or feelings. They are the results of the English school when the religious sentiment of England was low, at all events not in keeping with religious service and the worship of the Church. The little one gets of the old Gregorian tones in the Amens, and occasionally elsewhere, is worth all the rest.

This afternoon took rail for Hampton Court, and spent the afternoon and evening in wandering through the halls of this regal palace and the walks and parterres and terraces of its superb gardens along the banks of the Thames.

Hampton Court Palace is situated on level ground, but it lies beautifully on the banks of the Thames, and is enriched by the growth and culture of centuries. When one walks through its long halls, its spacious quadrangles, its suites after suites of apartments, and looks out upon its miles of terraces on the

banks of the river, how one feels the reality of the genius, the ambition, the full, overflowing munificence of Wolsey! What a monument of the pride and luxury of a priest, a poor man's son, with no family to found, no child to succeed! . . .

4. *Monday.* . . . Took tea at the Athenæum and met Landseer there. He introduced me to a Mr. McGregor, M. P. for Glasgow, and Lord Avonmore, a polite, high-fed old gentleman. We formed a table together and passed a pleasant hour. Near us sat a gentleman named Robinson, a bachelor, a member of the Club, and a man of some fortune, and an oddity, who has an absorbing admiration for Nelson, and has devoted much of his time and money to collecting a private museum of Nelson curiosities and memorials. Landseer introduced me to him as the author of "Two Years before the Mast" and an admirer of Nelson, and Mr. Robinson was so much pleased that he said he would go down to Cork Street and light up his museum and show it to me, though it had never before been lighted. In an hour or so we adjourned to Cork Street, and were shown upstairs into a large upper room, as large as two ordinary parlors, lighted by a skylight. In the centre of the room, now lighted by an extempore arrangement of some two dozen candles, sat the worthy, curious old Robinson, with his servant Tom in attendance. He received us with great cordiality, and proceeded to expose his museum. Here was every relic of Nelson, everything illustrating his life which love or money had enabled him to command. There was a painting of every battle Nelson had fought and every leading act of his life, from his fight with the polar bear on the ice, when a midshipman, to his death in the cock-

pit of the *Victory* in the arms of Hardy. Here were large models of every ship in which he had sailed, with pieces of their masts or keels, and the cannon, pistols, muskets and swords taken from them. Then there were relics of a more personal character. An admiral's coat, with its tarnished buttons and orders and moth-eaten cloth; a cocked hat; a sword which Nelson had worn; a bound volume of original letters, and letters from Lady Hamilton; and one startling thing, a full length figure of Nelson, done in wax, dressed in the very clothes worn by Nelson, hat, shoes and all, with that melancholy, thoughtful, pale countenance, the drooping eye, perfect in expression, the hair arranged to the life, and the effect so startling that I felt as if my host was a wizard of Endor, and had called up the form of the hero to confront me. This image was made by a young lady, the niece of an artist (whose name I forget) who was taking his portrait. He asked Nelson's leave for his niece to take him in wax at the same time. Nelson consented, and when both were done the tradition is that he said, "I was never taken larboard and starboard at the same time before." It is extremely well done, and produced none of the disagreeable effect of wax statues generally; and the pale, sallow color of the wax, as seen by candle-light, suited well to the known complexion of the man.

After exhausting the curiosities he told us that Nelson always invited his guests to take a glass of grog before they left, "and this is my cabin," said he, "and you must take a glass of grog. Here, Tom, glasses of grog." So Tom brought the grog, and Landseer and I sat down at a kind of capstan and took our grog with him. I told him the anecdote of

my relative, Captain Dana, seeing the French fleet in the afternoon, and two nights after, falling into the midst of Nelson's fleet, being taken into the cabin, seeing Nelson at his table, charts before him, and explaining to Nelson the position of the French fleet, which he was in pursuit of, and hearing a few weeks afterward of the battle of the Nile. This interested him much, and he said he should enter it among the facts and examine Nelson's log, etc.

After a little further pleasant talk we took leave of our singular friend. . . .

August 5. Tuesday. To-day I determined to see what I could of the courts. After an Athenæum breakfast, I took cab for Lincoln's Inn, where the Court of Appeals was in session. In a small room, with the dingy look of English public rooms of the old style in summer, woollen curtains, woollen carpets, unwashed windows, but with various escutcheons and inscriptions on the walls in honor of the great chancery judges, sat the Court of Appeals in Chancery. Sir Knight Bruce and Sir James Turner constituted the court. Lord Cranworth sat with them. The barristers were in gowns and wigs, and the passages and court-yards were alive with gowned and wigged men, without hats, walking up and down, conferring with one another, or with their clients.

After one or two decisions, the two judges withdrew, and Lord Cranworth proceeded to hear cases in the High Court of Chancery. He first delivered an opinion in *Brandon vs. Brandon* respecting an estate that had been settled over twenty years, which one party endeavored to open. After the opinion he added, "I should stop here were it not for a letter from a party interested in this cause, which was put

into my hands last night. It closes with a request that the name of the writer be kept secret. I shall make it as public as possible." He then read the letter which contained some suggestions as to the decision, and made a few dignified remarks upon the attempt to influence a judge by private communications. He thought the letter was written in ignorance, and as it contained no suggestions improper in themselves he took no further notice of the occurrence. Lord Cranworth's manner is mild, conciliatory and polite; and his tone of voice peculiarly agreeable, naturally sweet and indicating culture.

From this court I went to Brompton, on the invitation of Mr. Adolphus, the distinguished lawyer and reporter, who is now a county court judge, to attend a session of his county court. I was particularly desirous to see the working of this institution, and nowhere could I see it to better advantage than under Mr. Adolphus. He invited me upon the bench, and I sat with him for a couple of hours, watching the operations of his hearings and decisions.

The county court has jurisdiction to the extent of £50, with a right to suitors to call in a jury in cases involving over a certain amount. But I am told that a jury is almost never called, as it involves expense, requires delay, and there is usually more confidence in the judge. It is very rare that counsel are employed. A lawyer whom I met in the train to Cambridge told me that he had known a whole term with counsel in only one or two cases. Adolphus tells me that not one case in ten that is tried before him is managed by counsel. The clerk's office is always open, and a suitor goes to the clerk and hands in his bill or demand, or states his grievance, and the

clerk enters in a book the name and residence of the plaintiff and defendant, and the nature of the claim, and fills out a summons to the defendant to come to court on such a day, and includes a brief description of the claim. This summons is served by an officer of the court and returned. The plaintiff has nothing to do but to describe his case and pay a fee. The defendant on receiving his summons may go to the clerk's office and pay the demand and costs, or tender as much as he desires to offer. The clerk informs the plaintiff, and the plaintiff may accept the offer and sign a quittance. The offer may be to pay by instalments, and if it is accepted and the instalments are not paid, the plaintiff may have judgment and execution for the whole.

If the defendant makes no tender, or if his tender is refused, the case is put on the docket for hearing. The hearing is in this manner. The judge calls the case. The plaintiff takes the stand, is sworn, states his case and the facts. The defendant is asked if he wishes to examine the plaintiff. The judge puts what questions he pleases. If the defendant does not yield his case, the other witnesses for the plaintiff are examined in the same manner, the judge being usually the chief examiner. Then the defendant is sworn and examined, and his witnesses, and the judge tells the parties his view of the case, and asks the party he proposes to decide against if he has any explanation to offer. He then pronounces his decree. He has power to require money to be paid by instalments, and this is almost always done with good effect, as the persons litigating here are usually of moderate means, and such a decree is not only humane, but more likely to be complied with. Mr.

Adolphus usually asked the prevailing party on what terms he would take his decree, and the answer usually proposed periods of credit which the judge thought reasonable. On this, too, he sometimes heard the parties, and if the defendant showed cause, he would prolong the terms, or if the plaintiff showed that the defendant was not trustworthy, or was about to leave the neighborhood, he gave decree for the whole at once. The rule is that if any instalment is not paid, an execution may issue for the whole. But even as to this, the clerk told me that he exercised an advisory jurisdiction, and if the debtor showed an excuse he sent for the creditor, and it was usually for his interest to extend the term of payment.

Husbands and wives are allowed to testify for each other, and Mr. Adolphus told me that this was found to be very important and valuable in the ordinary run of business contracts in the humbler classes, which are usually chiefly with the knowledge of the woman of the house or shop.

He disposed of a large number of cases. I should think in two hours he disposed of eight or ten disputed cases, as many more in which only one side testified, and a great number that went by default. Counsel appeared in two cases, and not to the credit of the profession in either. The same lawyer appeared in each, a low-lived fellow, and he had no defence and little or no evidence, and seemed to rely only on the chance of the failure of the other side. I am quite sure that but for him there would have been no defence in either case, and the only effect was a fee to him.

I was much pleased with the operation of this system, as well as with the fairness and good sense of

the judge. The swearing of the parties themselves, the removing of all objections to interest, and the examination and decision by a single judge, with equitable powers as to the mode of decree, and the promptness and rapidity of the whole proceeding, all satisfied me of the great utility of the system. . . .

Dined at Lord Cranworth's. Present, Lord and Lady Cranworth, Macaulay, Shaw-Lefevre (the Speaker of the House of Commons), Spencer Walpole, member for Cambridge, and a leading Tory statesman, Sir Charles Russell, a young baronet, who has returned with honor from the Crimea where he served in the Grenadier Guards at Alma and Inkerman, and Mr. and Miss Lambton, nephew and niece of Lord Durham, and Sir Henry Holland.

The company was very agreeable, and all went on cheerfully. Macaulay was in excellent spirits and behaved well. He did not tyrannize nor preach nor arrogate all the conversation, but took his share pleasantly and cleverly. Lord Cranworth put to him the question whether I should go to Paris, or to Scotland and the North of England. Macaulay said, "Mr. Dana has given four weeks to England, and the question is, whether the fifth week shall be given to a further view of England or to France. I say, decidedly, France. One week added to five is not much; but one week of new impressions of a new country, a new people, will give something he will never forget, and of great value in itself." The Speaker was rather inclined to favor Scotland and the North on the ground of doing one thing well, and not two imperfectly; but I think Macaulay was right.

Macaulay is a short, thick-set man, with a strong

thick voice, a North country if not a Scotch accent, and prominent forehead, and a look of sturdy solidity and force rather than of either brilliancy or sensibility. He is clever and antithetical in his conversation, partly in sport. They were speaking of the White-bait Ministerial dinners at Greenwich. Macaulay said the trouble was the speech-making required of one, which spoiled the pleasure of the eating. He said, "Canning said the best thing."

"I can easily believe that," said Lord Cranworth. "Canning was called on to speak and said, 'This is a fish dinner, and I shall imitate the habits of that animal, who is said to drink a great deal and to say nothing.'"

"Yes," said Macaulay, straightening himself out, and raising his tone for a good thing, "better is a dinner of herbs, where no speaking is, than White-bait and oratory therewith."

Speaking of the recent assault upon Sumner and the carrying of fire-arms —

Mr. Dana. "But every citizen of the United States has a right, by the Constitution, to bear arms."

The Speaker. "And so has every subject in Great Britain by Act of Parliament."

Macaulay (bursting in), "being a Protestant — being a Protestant, the act says — lo! the Duke of Norfolk cannot carry a stiletto; but Mr. Spooner — Mr. Spooner may carry a howitzer and a brace of revolvers."

The conversation turned upon field sports, and Macaulay was learned on "Izaak," as they all called him without the "Walton," and the streams he fished, and the inns he lodged at, and the kinds of fish. The Speaker shone on fishing, and a lawyer

present, Mr. Graves, distinguished as a codifier of criminal law, surprised every one by his minute knowledge of the fishing streams. He called the river the "Dōve" with a long *ō*. "Is that called Dōve," said Macaulay; "you say Dōvedale, don't you?" "Yes," said he, "it is Dōve, but Dōvedale."

(Wordsworth makes it rhyme with love. "She dwelt among the untrodden ways," etc.)

The Speaker is a fine specimen of the English gentleman. The Speaker of the House of Commons is chosen upon a principle peculiarly English. He is not a man to fill the place of a leading parliamentary orator, and his office is not in the line of political promotion. He must be a man whom all England recognizes as a *gentleman*, a man of the most unequivocal social and personal position, with large fortune, so as to fill the place of the first commoner in England, and of such manners and sentiments that on any question of decorum or personal right or obligation in the House his word would be law. His decisions are not appealed from, and questions of order are rarely, if ever, debated, and when so, the debate is rather in the way of suggestions to the Speaker from the older members. Just such a man is Shaw-Lefevre. He is English, too, in his tall, strong frame, and his love of field sports and active life, for he commands the yeomanry cavalry of Hampshire, and follows the hounds, and fishes the trout streams, though he must be sixty or upwards.

Spencer Walpole is a well-dressed, well-bred gentleman, of the best aristocratic school, a good scholar, a man of honor, and an able parliamentary debater. He was Home Secretary under Lord Derby. I had a little conversation with him, and found him particularly attentive and cordial.

Sir Henry Holland, whom I have met several times before, was king's physician to William IV., and having accumulated a handsome fortune was made a baronet. His eldest son is a rising man at the bar. Sir Henry is particularly cordial and kind, and invited me to breakfast with him the next morning. He married a daughter of Sydney Smith. . . .

August 6. Wednesday. Breakfast at Sir Henry Holland's, Brooke Street. He has a large house in a fashionable quarter. He was alone. Lady Holland was in Scotland. "This room," said he, "Burke used to live in. Here he often breakfasted, and after he lived at Beaconsfield (which is pronounced *Bēc-onsfield*) he made this his home when in town." I looked up at the ceiling and cornices, and thought that the voice of Burke had resounded there, grave or gay, solemn or thoughtful, depressed with the gloom of the times, foreboding apprehension for social order and religion, for the throne and the state, or eager in his pursuit of what he believed to be gigantic, successful and patronized crime, in the person of Warren Hastings. Had not Reynolds and Johnson and Beauclerk met him here? . . .

In this room, too, often, Sydney Smith had kept the table in a roar, and said his wisest, wittiest things. . . .

Left town in the evening train in company with H. T. Parker, who is thoroughly acquainted with Oxford, having spent several months there, on a trip to Oxford. Reached Oxford about sundown of a beautiful day. It is the middle of the long vacation and Oxford is deserted, more than usually so, from the late extreme heat of the weather. Many of the shops are closed, not a gown is to be seen. This was

inevitable, as the vacation began before I arrived, and does not end until long after I shall have sailed.

We drove to the Angel Inn, the "good old Angel Inn" which looks as old and dull and dark, comfortable and hospitable, as English inns usually do.

Parker said I should see Oxford right, at first; so we walked out on the London road, and stood upon the Magdalen Bridge and saw that unequalled view of the Magdalen Tower from the bridge. . . .

At nine o'clock, the "Great Tom" of Christ Church tolled its one hundred and one strokes for the curfew hour, and the chimes of twenty colleges filled the air.

August 7. Thursday. Woke with the chimes of the Oxford bells. Called at the different colleges to deliver my letters, with little hope of finding any one in town, or "up" as the phrase here is. Dr. Pusey, to whom I had two letters, and whom I much desired to see, was away. I saw his room, in the close of Christ Church. Two others to whom I had letters were away. The only letter that succeeded was one Mr. Justice Coleridge had kindly sent me to a Mr. Hobhouse, a fellow of Merton. He was in, but just leaving town, and consigned me to the care of a brother fellow, Mr. Hammond. Hammond is a man of learning and worth, and did his best to show us Oxford. We visited Christ Church, Oriel, New College, Magdalen, All Souls, Balliol, St. John's, Merton, Exeter, Queen's, Brasenose and Corpus Christi. (Corpus, it is called.)

Oxford is of great antiquity. Its monastic institution is older than Alfred, no one knows how much older, and he was not its founder, though its patron, and long a resident here. Here Edmond Ironsides

was murdered, and Harold Harefoot crowned, and Maude besieged, and here Wycliffe preached, and Cœur de Lion was born, and Cranmer, Ridley and Latimer were burned. All know how long it held out for King Charles, and how long he lived here, and all know the great names that founded its colleges, or studied within their walls. Here originated the two great movements of the Church of England, Methodism and Tractarianism; and from Oxford, too, came the chief opponents of each of these movements. In one college, Oriel, were educated Newman, Pusey and Keble, and their opponents, Whately, Arnold and Hampden.

There is something about Oxford which no other place in the world exactly equals. Antiquity, historical associations, venerable architecture, quiet retreats for the "still air of delightful studies," in the midst of numbers, and the all-pervading presence of the means and appliances of learning, and over all, the religious nature of the institutions, give to this spot a character unlike that of any place in Christendom. There is no one garden in Oxford equal to the gardens of Trinity College, Cambridge, none perhaps superior to St. John's, King's and Clare. There is no one building in Oxford equal to King's College Chapel in Cambridge. But taking the whole effect, there is a character to Oxford that Cambridge does not approach. And although I give the preference to Trinity Gardens, yet, had I not seen them, I should have thought the park of Magdalen, with its deer, and the deep shades and exquisite turf of New College, Christ Church, St. John's, Merton and All Souls, the perfection of collegiate retreats. At New College, being vacation, a number of ladies, friends

of some resident officers, were sitting under the trees reading and sewing. These retreats are the more perfect, because all the grounds of each college are included within a high wall of stone, and are inaccessible except through the wicket gate, at the porter's lodge, so that one is protected against spectators or chance comers.

The antiquity of Oxford is well shown by the fact that "New College" was founded in 1380. This is one of the magnificent foundations of William of Wykeham, and is connected with his collegiate school at Winchester. The chapel of New College is very beautiful. I was introduced to Mr. Sewell, a fellow of New College, brother of the celebrated authoress, and I went to his rooms, where he had a party of ladies spending the morning. The rooms were nearly five hundred years old.

Christ Church is the leading college for numbers and influence, and its chapel is the cathedral church of the diocese of Oxford, and its great hall and its library are noble rooms,—the whole the result of grand ideas, the princely scope of Cardinal Wolsey, its founder.

In All Souls College there are no students. It is simply an establishment for men of learning, who form its body of fellows, forty, I think, in number, who are supposed there to follow studies and develop learning, and practise the duties of cloistered piety. They are required to be "*Bene nati, bene vestiti, et in plano cantu modice docti.*"

In some of the halls and libraries are paintings by the old masters, and in many are portraits and statues of distinguished founders, scholars or benefactors. (On the floor of Christ Church I saw a tombstone of

Elizabeth Channing, died September 30, 1768.) At the Bodleian I was introduced to the Rev. Mr. Coxe, sub-librarian, a friend of Parker's, and "the aye best fellow e'er was born." For kindness and delicacy, combined with heartiness and frankness, substantial piety with the utmost manly freedom, I rarely have seen his equal. Indeed, these are combinations not common with us at home. He has a wife and large family, is poor, but cheerful. Has no reasonable hope of rising higher in the church, yet looks with complacency and affection on those who have risen above him, often with less merit, by accident, interest or compliance. He holds a little curacy in Lord Abingdon's parish, the lord's honorable and reverend brother being the rector, doing nothing and taking the chief pay, which with a sub-librarianship and the chaplaincy of Corpus, gives him, in all, some three hundred pounds. He showed me all over the wonderful Bodleian Library, where, among other things, I saw a book printed by pen, in the year 850, and took us to the hall of Corpus, where we had a lunch of porter, bread and cheese, Mr. Coxe being greatly distressed that vacation prevented his entertaining us better.

I looked at the Sheldonian Theatre, the Radcliffe Library, the Ashmolean Museum; visited the monumental column erected to the three martyrs, and saw the very spot, marked by a stone in the street, where Cranmer was burned; passed most of the fifteen parish churches, which, in addition to the nineteen colleges and five collegiate halls, dignify Oxford; looked at the remains of the ancient wall, for it was a walled town in old times, and had many defences and captures, and at its grim castle, and bid

adieu to it with the setting sun, and took my course to Warwickshire.

If one expects to find in Oxford large, elegant buildings, of light-colored stone, such as are to be seen in Paris, or of the pure clean hue of the churches of New York, he will meet a disappointment. The buildings are chiefly of a drab-colored stone, stained, moulded and much worn and eaten by time, and, until recently, little attention has been paid to restoration. Of late, the zeal for restoration has acted upon Oxford, and governed by the good taste and veneration of the Archæological Society, it has been usefully employed, and the climate here soon gives to the newest stone the look of time.

I found that Dr. Pusey was esteemed the most popular man in the university, respected by all parties, and his name actually cheered at the Commemoration by the students, more than that of any other member.

Reached Leamington in the evening. This is a great fashionable watering-place, and to me totally uninteresting. I came here only for the convenience of reaching easily Warwick, Stratford and Kenilworth, which lie in its neighborhood. Made arrangements for a carriage at an early hour in the morning, and went to bed in the first place without one object of interest I had yet seen in England.

August 8. Friday. The sun never shone on a more beautiful day, and day never lay over a more exquisite country than I saw to-day during the hours from early morning until dark, at the feudal castle of Warwick, the ancient town looking older and more feudal than anything I have yet seen in England, Guy's cliff, the ruins of Kenilworth, the home

of Shakespeare, the town and church of Stratford and the Park of Charlecote.

It was neither hot nor cold, moist nor dry. Harvest home was enacting in every field, men reaping with the sickle, women raking and binding sheaves, the slow-paced wagon "carrying" the harvest, men building and thatching the stacks, and the girls and boys and older poor gleaning behind the rakers and binders of sheaves. All this, too, is seen between beautiful hedge-rows under the shade of ancient trees, lining the roadsides mile after mile, and the hilltops of this beautifully undulating country crowned with parks and stately mansions.

Warwick Castle has not now its parallel in England, perhaps not in Europe. It is kept in perfect preservation, in its ancient feudal style, and the portcullis, with its grim teeth, is dropped every night, and you would not start to see the warder's form in complete steel pacing along the battlements "athwart the evening sky."

The apartments now occupied by the Earl of Warwick are stately and regal, both in their size and in their furniture, and the portress tells you that the good-sized ante-room you are in is of the width of the thickness of the walls. In these rooms are suits of armor and banners of the ancient Earls of Warwick, the king-maker, the gigantic Guy of Warwick, and the Nevilles, and later of the Brookes and Grevilles, and galleries of pictures by the great masters, and portraits of sovereigns and nobles. Here is the best portrait of Charles the First I have seen in England. It has more of the melancholy, thoughtful look than any of the others, which usually have given to the eye, partly closed, an unpleasant look either of insincerity or of fickleness.

As you enter the ancient gateway, three large, time-worn, ivy-mantled towers stand out before you, connected by high battlements, and defended by a deep moat. The oldest of these is called Cæsar's tower, and is thought to have been originally a Roman structure. The next is Guy's tower, of ancient feudal origin. Both these I ascended to the top by the dark stone staircases, through the guard-rooms, looking in at the dismal dungeons of the keeps, their walls cut into with the initials or arms or crests of the captives, who so beguiled the hours they were held by their iron-handed captors. The Avon (which is called the *Āvon*) flows under the walls, turning an ancient mill, the clatter of which breaks the stillness of the air. The grounds within the castle walls are in the most exquisite state of keeping. The turf is green and shorn, the ivy grows over all the walls, the trees are large and waving; and in pleasant contrast with the dark towers and battlements some women of the castle were seated on the turf under the trees, the light ribbons of their caps breathed to and fro in the fresh air, sewing and looking after the little children who were sporting in the shade; and as I stood on the battlements, the chimes of both the churches of the town filled the air with their strange wandering music.

I picked some ivy from the towers and addressed two or three letters to my children from the guard-room, repassed through the street-gateway, and found myself in the picturesque streets of this still gated and half-walled town, which nestles about the castle gates.

The church is a large and noble structure, worthy to be a cathedral. The chimes were filling the air,

calling to morning service. I went in and remained as long as I could spare time. The service was said, there being no choir on week days. As I could not now see the famous Beauchamp Chapel (always called in England Bee-cham) on account of the service, I took my way to Stratford by way of Charlecote Park. The drive was beautiful, passing vine-covered cottages, more spacious farm-houses occupied by middlemen or gentleman farmers, the constant harvesting in the fields, by hedge-rows, under trees, on roads almost as hard as a ship's deck, with an exquisitely beautiful variegated landscape of the richest verdure of England.

At Charlecote I found a beautiful little parish church, standing in the corner of the park, just on the edge of the village, under ancient trees, surrounded by graves and rustic monuments. Mrs. Lucy, the mother of the present owner of Charlecote, had entirely rebuilt this church and made all the sittings free, at her own expense, and I rejoiced to find that the aristocratic distinction of the manor pew was surrendered, and the lords of the manor worshipped in common with the tenants and the humble poor. I do not know where I have seen a church that pleased me more than this of Charlecote. It is beautiful in its style and material, as well as in its accessories. Within are the monuments of the Lucys of ancient days, Sir Thomas reclining on his tomb, and figures of the widow and twelve children, cut in stone, kneeling at prayer by his side.

What an air of stillness was over all this scene! The old brick manor-house reposed under the old trees; the deer, no doubt the descendants of the bucks and does of Shakespeare's time, shook their horns in

the shade as they lay under the trees, the same trees that Shakespeare saw ; and the Lucys still own the park, the trees, the deer and the village, and still live in the old manor-house.

Then came the old town of Stratford-upon-Avon. How quaint and old it looked ! It was market day, and in the middle of the old street, under the shadow of the quaint old houses with their overhanging second stories, the people were selling their articles in *market overt*. In an old street full of the oldest buildings stands the house of Shakespeare, incontrovertibly the house where he was born. All are familiar with its form. It is plain in the extreme, and small. A very pretty and intelligent girl, with a face of a romantic cast, met me in the lower room and conducted me to the room where he was born. This plain attic room, with its little windows, its plaster sides and low roof, has been visited by the great, the curious, the idle of all lands. It is scribbled all over with names, so thick, so overlying, that the greatest names are hardly legible beneath the accumulation of names written over them. The girl tried to trace the letters of the names of Walter Scott, Southey and Byron among the "names ignoble born to be forgot" that were scribbled above them. It was singular that to a large company in the room, without knowing that there was an American present, the first name she called our attention to was that of Ralph Waldo Emerson. Her mother told me that Irving slept in the room upon a mattress laid on the floor. I entered my name in the large book, and had the gratification to be recognized at once as "of note, yourself, sir," for they had read my book, and so had some of the party present.

I lounged round the town to the Shakespeare Inn, and went into a small parlor, where the invariable "Mary" of the English inn followed me with her pleasant voice, cheerful smile and respectful manner, and received an order for a mutton chop and a mug of home-brewed, with the habitual "please, sir, thank you sir;" and unspeakably nice was the chop and the home-brewed, and neat was the table-cloth, and quiet the room, and pretty and respectful was the Mary. As I lay back in my chair after my lunch and felt that I was in Stratford-upon-Avon, had seen Shakespeare's house, was among the very streets and houses he knew by heart, had seen Warwick and Charlecote, and had Kenilworth yet within reach before sundown, a sense of unspeakable happiness came over me. I kept springing up in my chair and walking the room, clasping my hands together, and exclaiming upon my happiness, and what had I done, what cause was there that I should have it all within my power and possession. But my cup was by no means full. A pleasure I had not anticipated was before me — the church of Stratford! I had expected to see a common parish church. But here was a large, complete and really grand old collegiate church, quite fit for a cathedral, with transepts, choir, nave and side chapels, of a beautiful venerable gray hue, mellowed by ages, standing in the retreat of a deep church-yard, approached by a perfect cathedral roof of double rows of lime trees. In the church, which is in a perfect state of repair and renovation, is the bust of the great poet, and two stones, in front of the chancel, mark the graves of Shakespeare and his wife, and on his gravestone are inscribed the celebrated lines deprecating a removal of his bones.

As a little instance of the continuity of things in England, the clerk who showed me the church told me that his father and grandfather had been clerks of the parish before him.

Determined to see the beautiful region of Warwickshire, so rich in natural beauty and historic interest, completely, I drove back to the old town of Warwick to see the Beauchamp Chapel. I lay back in my open carriage, the day lay softly over the landscape; it was perfect pleasure. I entered the old town of Warwick again, drove beneath the gray castle walls under the arched gateways, up to the church, and entered the Beauchamp Chapel. This is said to be the most splendid chapel in England except that of Henry VII. in Westminster Abbey. It contains many interesting monuments, among which are those to Richard Beauchamp, Earl of Warwick, and Dudley, Earl of Leicester, Elizabeth's favorite.

As delightful as everything has been to-day, the drive from Warwick to Kenilworth has been the crown of the whole. It does not rise to the romance of mountain or ocean scenery; but for everything short of those, and for a richness and beauty those will not furnish, I never saw its equal. Guy's Cliff rises to as much of wild romantic beauty as its deep richness of verdure and foliage will permit. The roaring stream, the rattling mill, the quiet spread of the trout streams below, the castellated house of gray stone, rising abruptly from the bank, the overhanging rock, covered with moss and ivy, all a few minutes' walk, a mere turn from the country roadside — indeed it has few equals!

It was nearly sundown, the light of common day was deepening into the red and yellow of sunset, as I

drove into the long, straggling, interminable, old-fashioned village of Kenilworth and dismounted at the castle gate.

It is quite in vain to attempt to describe this scene. The ruined towers, the fallen battlements, the remains of stone tracery over the windows as delicate as needlework, the ivy creeping over all, with its trunk so large, the growth of centuries, that I could not compass it with my arms, nor even touch the wall it clung to with my fingers' ends, and the evidences of the great extent and huge compass of its walls, the tilt-yards, the court-yards, the pleasure-grounds, as well as the towers and walls of defence, and the keeps of captivity it embraced — the memories of its sieges and captures and defences, from the time of the first Henry, the insurrection and long resistance of Simon de Montfort, the splendid tournament of Edward I., the imprisonment of Edward II., the festivities of Elizabeth, all rise before the mind and hold you in a trance of contemplation; but, such is the power of genius, not Plantagenets nor Lancasters, not defences nor captures, not royal Henrys nor regal Edwards, stand a moment before the fiction of the brain of one man, the Writer to the Signet, the clerk of the courts of Edinburgh. It is the place where Amy Robsart met Elizabeth, where Dudley triumphed and deceived, the tower where Amy slept, which enchains your attention and absorbs your interest. How can one escape, or recover himself out of, if he would, the enchantment of fiction. Much more real to him is it that Amy slept in that tower, that she met Elizabeth in that Pleasaunce Court, that she passed under that gateway in her retreat to Cumnor, than all one reads in Hume or Lingard or Turner.

I could not quit these towers, these walls, these grassy slopes, where the sheep were quietly feeding to the very foot of the battlements. I looked over the long landscape, I mounted the towers and stretched myself at length on the soft turf at their feet. It was a dream. Only the approach of darkness called me off to the duties of return and of the morrow.

August 9. Saturday. This was the first rainy day I had seen since I came to England, a period of four weeks. Two days it had showered a little, but the other twenty-six days had been days of unbroken sunshine. Reached Shrewsbury at about two o'clock P. M., and drove to the house of my cousin, Mrs. Anne Penelope Wood, the wife of Mr. William Henry Wood, and daughter of Captain William Pulteney Dana. From her I received a welcome so cordial, affectionate and sincere, that I can never forget it or her. . . .

After dinner I walked through Shrewsbury with Mr. Wood and took a turn in the Quarries, which form a noble mall of four walks, under lines of arching trees. The castle stands near, and was occupied by Sir William Pulteney in his life-time. The Dana Terrace is the principal walk of the castle, and is named from the Rev. Edmund Dana,¹ who planned it. Mr. Wood pointed me out an old house, with black

¹ Edmund Dana, the progenitor of "the English Danas" referred to in this and the succeeding pages, was the son of Richard Dana (1700-1772) and the elder brother of Chief Justice Francis Dana. Born in Cambridge, November 18, 1739, he graduated at Harvard in the class of 1759, and afterwards went to Europe to complete his education at Edinburgh. Later he married the Hon. Helen Kinnaid, daughter of Charles, Lord Kinnaid of Rossie Priory, Scotland. Sir William Pulteney, the maternal uncle of Miss Kinnaid, subsequently

timber cross-beams on the outside, in which Henry VII., Richmond, slept on his way to Bosworth field.

Shrewsbury is swept on three sides by the Severn. It stands on both its banks, and crosses it by large stone bridges. It is an old historic town, and in feudal times was of great importance as the border town of the Welsh marches. It has sustained many severe sieges. Near it was fought the battle between Henry and Hotspur, though "Shrewsbury Clock," Mr. Wood told me, could not be seen from the battle-field. Here Parliament was once held, and here was sometimes the residence of royalty. The old church of the town is the abbey church. This was an abbey of great antiquity and wealth. Little of it now remains. What remains constitutes the chief parish church of the town; and with its various orders of architecture, part in the Norman and part in the Saxon period, with windows and columns and arches of each, cannot but interest every one. . . .

August 10. Sunday. After an early dinner took a carriage, with Mr. and Mrs. Wood, and drove over to Wroxeter to see the home and burial-place of the English Danas.

Wroxeter is a fair specimen of the old English parish church, parsonage and village. The church stands on rather high ground, from which is a view of the distant Welsh mountains, the Caradoc Hill, where Caractacus made his last stand, the Wreckin (pronounced Wrēē-kin), the chief hill of Shropshire, and

presented Mr. Dana, who had taken orders, to the living of Wroxeter, near Shrewsbury, and at a yet later day added to this another living in the neighborhood. Mr. Dana was the father of thirteen children, instead of twelve, as stated in the text.

of the rich valley of the Severn. The church stands in the midst of the graves of the villagers, and the vicarage opens into the church-yard. In this vicarage lived and died Edmund Dana, my grandfather's only brother. Here he officiated from 1766 to 1823, a period of fifty-seven years. Here he brought his beautiful noble bride, a peer's daughter, in the bloom of her charms, and here he laid her, under the stone of the chancel, at middle life, the mother of twelve children, loved and honored by all. Here he lies by her side, and here most of his children are buried. From this roof went out his eldest son to India, Egypt, the Peninsula, and here he returned with the honors and highest rank of the army. Here grew up, here played, here walked and studied and loved and married, those beautiful daughters, who, Mrs. President Adams says, were the most elegant women she saw in England,¹ and whom George III. called the roses of his court. But all this has passed away! Youth and beauty have given place to age and decay, and age and decay to death, and death is almost followed by oblivion. I am one of the few that inquire

¹ "The finest English woman I have seen is the eldest daughter of Mr. Dana, brother to our Mr. Dana; he resides in the country, but was in London with two of his daughters, when I first came here. I saw her first at Ranelagh. I was struck with her appearance, and endeavored to find who she was; for she appeared like Calypso amongst her nymphs, delicate and modest. She was easily known from the crowd, as a stranger. I had not loog admired her, before she was brought by her father and introduced to me, after which she made me a visit, with her sister, who was much out of health. At the same time that she has the best title of any English woman I have seen to the rank of a divinity, I would not have it forgotten that her father is an American, and, as he was remarkably handsome, no doubt she owes a large share of her beauty to him."—Mrs. John Adams to Mrs. Craach, London, 30 September, 1785. *Letters of Mrs. Adams*, Boston, 1848, page 271.

here for them or their memories. A new vicar holds the vicarage and serves at the altar, and children, not theirs, sport round those trees and sing in the passages of the old house.

Still there are many memorials of them remaining. Before the chancel are the tombs of the Rev. Edmund Dana, the Hon. Helen Kinnaird Dana, and their children. The bridge and the old Roman column in the church-yard and some old trees bear his name, two, mulberry and sycamore, are still standing; and with the English adherence to antiquity, the old people of the parish still call him the "old gentleman," and look upon the present rector, who has been there twenty years, as the "new vicar," and complain of his innovations. . . .

Left Shrewsbury early, direct for London. The day was fair, and the manufacturing towns of Birmingham, Wolverhampton, Shiffnal, Soho, looked a little more tolerable than when I passed them on Saturday, when the dull rain and low clouds kept the smoke down among the houses, so that it seemed hardly possible that human beings could live there. There is something inexpressibly dull, monotonous, wearisome and dispiriting in the aspect of these manufacturing towns of the midland counties. The uniform dull brick of the houses, ranged in long uniform rows, all with tiled roofs, the dreary level wastes of the neighboring country, stripped of trees and enriched by no parks or closes, and the dull smoke-cloud resting over all. . . .

The West End of London is now deserted. The clubs are mostly closed for repairs, equipages are few, the tall valets with bands and white stockings and liveried coats and small-clothes are rare, the parks

are deserted by the coroneted coaches, and the daily trains take off the last apologizing lingerers behind the tide of fashion. . . .

August 12. Tuesday. Took eleven o'clock train to Winchester to meet Sir William Heathcote. Before leaving, received and answered a very kind and attentive note from the Marquess of Lansdowne. What could be more courteous and polite? I had no letter of introduction to Lord Lansdowne, and there is no reason why he should attend to me; but, not content with having me at dinner, he writes from his villa at Richmond to say that he hears I am in town, and hopes I will give him the pleasure of seeing me again by going out to dine with him on Thursday, and trusts that the beauty of the scenery will be some compensation to me for the length of the drive. This is well put for a man whose invitation can command almost royalty itself, and whom there are not a hundred men in England that would not travel the length of the island to dine with at his Richmond villa, where he sits the head of the social aristocracy, the respected and beloved gentleman, amid the memorials of generations of statesmen, poets and scholars, and carrying in his own person the traditions of more than half a century, the contemporary of Pitt, the colleague of Fox, the companion of Liverpool, Castlereagh, Canning, Wellington and Peel, the friend of Romilly, Hallam and Mackintosh, the man who moved the address on the death of Nelson, and seconded the address on the death of Wellington.

I was obliged to decline the invitation, as accepting it would break up all my plans for the rest of my stay. . . .

At Winchester, found Sir William Heathcote waiting at the station. His delightful countenance and delicate manners come over one like the sweet South.

He took me to the cathedral close, to the house of the dean of the cathedral, an excellent, warm-hearted, sturdy old gentleman of over eighty years, who still visits and drives and talks with the freshness of youth. Here we lunched with meat, fruits and ale or claret. Then came a pleasant walk in the gardens, which are very beautiful, a clear, rapid trout stream running through them. Then we went to the college,—William of Wykeham's college, where so many of the best boys of England are educated,—the warden of the college, called the "Warden of Winchester," going with us. Sir William was educated here, the warden is his personal friend, and we had every attention. A curious, highly interesting place it is. The old buildings date back nearly five hundred years, and most of the usages of the school are as old. The boys sleep in great stone rooms, on wooden beds, with very old, time-worn, worm-eaten chests of drawers. The benches on which they sit at school look as if Alfred might have ordered them, and at their plain wooden tables, in the great dining-hall, they eat from square wooden trenchers, and drink their ale from curious old jugs. Here they learn the classics of luxurious Rome and Greece, and here they are fitted for the parliament, the church, the bar, the army and navy of luxurious England. In their play-ground they practise the roughest games; fagging, in a modified and well-regulated manner, remains; and so much interest is taken in their sports, that when the Eton boys come

down on the annual challenge to play cricket with them, the chosen elevens of the two schools, some of the Eton masters come with the boys, and there is a general holiday. The game of this year, in which the Wykehamists were beaten by the Etonians, was learnedly discussed by Sir William and the warden.

The college is built round two courts with two towers over each gateway. The chapel, which has recently been restored, is not only beautiful, but almost gorgeous. The dining hall is gothic, with a lofty groined roof. By the side of the chapel are cloisters surrounding a large quadrangle more than one hundred feet square. Over the entrance to the school is a bronze statue of William of Wykeham.

Leaving the college, we passed to the cathedral, timing our visit so as to be able to attend the evening service at three o'clock. The service was performed by the choristers and clergy, with a new noble organ, thought not to have its superior in the kingdom, played by Wesley himself, the celebrated musician. The service was intoned and choral, and the effect quite grand. The choir sang an anthem of Handel's.

After service we walked about the cathedral in company with the excellent warden of New College, Oxford, Sir William's particular friend, who passes the Oxford vacation here, he being also a canon of this cathedral.

In antiquarian interest no cathedral exceeds Winchester. Its foundation was laid by the first Saxon kings who embraced Christianity, in the seventh century. It was rebuilt by St. Ethelwold in 980, and much enlarged, and almost rebuilt again by William of Wykeham in 1366-1400. It is very large, being nearly six hundred feet long, and has

numerous aisles and side chapels, and is full of monuments and tombs, effigies and tablets to the warriors and saints, scholars and divines, and the noble and gentle ladies and men of all the generations it has survived. In the choir lies William Rufus, and by his side are six mortuary chests, containing the bones of Saxon princes. In a side chapel lies Izaak Walton. The stone tracery of the chancel window and of some portions of the choir roofing are as delicate as embroidered lace-work.

As I passed out of the choir I came abruptly upon my friend George Shattuck. We last met in Boston. He was as much surprised as I. We could see no more of each other, as he was to leave town in an hour.

The town of Winchester is scarcely less interesting than the cathedral and college. It is of an antiquity involved in obscurity. It was a chief settlement of the Britons, a garrison of the Romans, and the capital of England under Egbert, and here Alfred and Canute are buried. Here William the Conqueror built a castle and palace, the foundations of which are still to be seen. Here Richard Cœur de Lion was crowned, here John did homage to the Legate. Here parliaments were held in the fourteenth and fifteenth centuries, and here Henry VIII. entertained the Empéror Charles V. In the civil wars it was a conspicuous place, and was taken and retaken. Cromwell blew up the castle and demolished the bishop's palace and stabled his horses in the cathedral, where his troopers made great havoc of the monuments, and injured the building itself not a little. The only monument left untouched was that of Wykeham. This arose from the fact that the

commander of the troops stationed here was a scholar of the school, where all the boys take an oath to preserve the monument of the founder. Two of the old gateways still remain, and we drove under them as we passed out of town.

Lady Heathcote had driven over to the evening service, and we joined her at the cathedral close. Here Sir William's full style equipage was waiting for us, an open barouche with arms and baronet's helmet emblazoned, four prancing blacks, with two postilions in full livery, and a livery on the box behind. It made a grand show as it drove through the narrow streets of Winchester.

We drove out over the Southampton road, passed within sight of the remains of the castle, now used as a court-house; the unfinished palace of Charles II., now used as a garrison, and the old hospital of St. Cross, which we are to visit to-morrow. We entered Hursley Park, drove through its long avenues, passed the ruins of old Merdon castle, and were set down at the manor house. It is a large brick house of the reign of William III., cannot be called handsome, but is large, convenient and stately. It has gardens, lawns and all the appurtenances about it. The hall is very long and wide, and filled with pictures, chiefly portraits. . . .

Soon after ten the guests retired, and I observed that the household retired early, and Lady Heathcote told me they rose early. There were no odious cards; and, indeed, I have not seen a pack of cards since I came to England.

August 13. Wednesday. Woke with the servant bringing water, boots and my brushed and folded clothes, and opening the shutters into the park.

Nine is the breakfast hour, and I spent an hour before breakfast in walking in the garden and park. I lay down on the soft turf under a spreading and deep-leaved oak-tree. Here are no mosquitoes or other plaguing insects as at home, but one may lie at ease on a turf as smooth and soft as a carpet, undisturbed, and contemplate and enjoy this mixture of wildness and cultivation that marks an English park. Here is the nice attention to turf and trees, while by your side are the deer, and over your head are circling and cawing innumerable crows and choughs. The great manor clock, which tolls the quarter hours,

“ Four for the quarters and twelve for the hour,
Ever and aye, by shine or shower,”

called me away from a delightful reverie to meet my kind hosts at breakfast. . . .

After breakfast Sir William said he should walk down to the morning service at the church, and I went with him. The church and village of Hursley are at the park gate, only about ten minutes' walk from the house, and this walk is over smooth turf, under the deep shade of trees. We turned aside, by a by-path, and came upon the beautiful secluded, ivy-covered vicarage, the *beau-ideal* of an English vicarage. This is the home of Keble. Keble is the vicar of the parish, appointed by Sir William, who holds the gift. The vicarage has been built by Sir William, and is in the purest style of Gothic cottage architecture. Keble is not at home, being off on a long vacation, which the rural clergy usually take in harvest. This was a disappointment, as I hoped to know him, not only by Sir William's introduction,

but by a letter Mr. Justice Coleridge kindly sent me.

The church has been renovated and almost rebuilt by Keble himself from the proceeds of his "Christian Year." It is quite complete in its character, and beautiful in detail. It is all of stone without, the floor of tiles, the roof and walls of stone, and the windows of stained glass. The sittings are all free, and all made in the same manner. Sir William has surrendered his manorial pew, and he and his family sit in the same manner with the humblest cottagers. We passed in, and took our seats on the oaken benches, where were gathered some twenty or more of the peasantry, in their white frocks, and as many women. Daily morning and evening service are performed here throughout the year, and frequent communions held, and free seats furnished to all. The result is that *there is not a Dissenter in the parish*. I have several times been told that where this system is adopted of free open sittings, without distinctions of rank, daily service, frequent communions, and a working clergy and parish schools, it nearly eradicates dissent.

After service and a walk back to the hall Sir William took me out to drive in his dog-cart. The dog-cart is an open chaise or gig, with one or two horses, and a low seat for a servant behind. A boy in livery sat behind to open gates and do messages and hold the horse's head when we stopped. Sir William drove. He carried me to see his farm, where is Lady Heathcote's dairy, and a mill and shops where all the wood and iron work for the estate is done. All the work of the estate is done upon it, and here are blacksmiths, carpenters, shoemakers, millers, etc.

Then we saw the cows, the sheep, the pigs, and the horses. The horses have large rooms to move about in, and have a constant supply of water and hay. An Irish blood mare, belonging to Mr. Shirley, and Sir William's heavy black coach horses were my chief attraction.

After these we drove to the town of Romsey to see the old church. It is a noble specimen of the mixed orders of Norman and Gothic, with many monuments of antiquity. The history of its restoration is singular. The roof and walls were of plaster, and had been so beyond the memory of all. The sexton, a plain, unlettered man, was knocking off a piece of loosened plaster, and saw under it the marks of sculptured stone. He showed this to the rector, and asked leave to proceed in the removal. The rector was indifferent and gave leave. The sexton carefully and laboriously removed all the plaster, and disclosed a perfectly finished and exquisitely sculptured Norman window. This discovery showed the condition of the whole church. A large sum was raised for its restoration, to which the new rector, the Hon. and Rev. Gerard Noel, was the chief contributor, and the work of restoration is nearly completed. Under this roof, and behind these plaster walls, substituted by the pious horror of good taste of the Puritans, were the most beautiful roof and the noblest windows of the Norman and Gothic periods. This church is much visited by antiquarians in architecture. It was shown us by the sexton himself, the discoverer, who took great pride in tracing out the renovations. He has become not only an enthusiast, but an adept in architecture.

August 14. Thursday. Before breakfast I ex-

plored the ruins of Merdon Castle, which front the house across the lawn. The castle must have been of princely dimensions. It was built by Henry de Blois, brother of King Stephen. Breakfast, and again a walk to church for morning service. After service Sir William showed me the schools of the village and the house of the teachers, which he built and presented. Being harvest, it was vacation. The school-rooms were pleasant and well ventilated, and the building picturesque and substantial. Why can we not have pretty school-houses in America? Who ever saw one such there? These buildings were of dark brick, covered and strengthened and crossed with cream-colored stone.

My host said he was engaged until lunch, and after lunch would take me out again in his cart. I went to my chamber and wrote letters home. What could be prettier than this scene? My windows looked out upon the lawn of the park. Under the trees the deer were shaking their horns, to keep off the flies, as they lay in the shade; and on the lawn a troop of yeomanry cavalry, by leave of Sir William, were drilling, their bugle and word of command ever and anon breaking the stillness.

After lunch the dog-cart was brought, and Sir William and I, with the tiger behind, took our morning drive. This time we drove through two miles of park to the village of Enfield, an off-parish of Hursley, recently established by Sir William under the new act of Parliament for the relief of large parishes, and endowed by him. The church he built at his sole expense. It is a good-sized, well-proportioned building, wholly of stone, with no sparing of expense, romantically situated, and surrounded by new graves

As you ascend to the church from the roadside by the stile is

“ A little fountain-cell,
Where water, clear as diamond spark,
In a stone basin fell.”

Over it is a cross, and under the cross are cut in the stoue some lines calling upon the wayfarer, who drinks, not to

“ drink and pray
For the kind soul of Sybil Grey,
Who built this cross and well,”

but to look to the cross above it, and to remember what it teaches and promises. This is the pious work of Lady Heathcote, and the lines are hers. I regret I did not copy them.

From Enfield we drove to Otterbourne, also one of Sir William's parishes. The church gate was locked, and he said he would drive to the house of a lady near, where he could find the keys. “ Her daughter,” said he, “ has written several novels, which have been much read and admired in England. Her best is called ‘ The Heir of Redclyffe.’ ”

“ ‘ The Heir of Redclyffe,’ ” said I; “ do I not know ‘ The Heir of Redclyffe,’ and have I not been more affected by it than by any novel I ever read? I should delight to see the author.” I then told him how much the book was read and admired in America, and what effect it had had, particularly on the young.

We drove to the house. It is a neat, rather handsome, though small stone house, completely embosomed in trees, shrubs and hedges, with the air of gentility in its surroundings and furniture.

Captain Yonge was a retired officer, a leading magistrate in the county, and much relied on for his force of character and principle. He died lately, leaving a

widow and children. The mother and daughter, in half mourning, were seated at tables reading and writing, and received us with ease and cordiality. Their friendship for Sir William is of a deep and touching character. I said nothing to Miss Yonge about her book. In a short visit it did not seem to me to be in good taste, as she was evidently not vain, nor a person to be treated with less than the highest attention. Her countenance is regular, her complexion sallow, but not unhealthy, her hair black, and her eyes dark and very fine. Her whole appearance indicates a woman of strong feelings, and quick as well as deep sensibilities. I was satisfied that she might write "The Heir of Redclyffe."

In this church, too, the sittings are free, the service daily, the schools free and well kept, and the people all in the church. The daily service was soon to begin, but we had not time to stop.

Sir William tells me that Miss Yonge lives fully up to her professions, and is a secret faithful laborer for good in all parts of the parish.

From Otterbourne we drove into the old town of Winchester, and visited the curious old hospital of St. Cross, one of the strangest old affairs in the country. It lies low in a sweet village about a mile from the town, approached by a pretty path. Erected in the time of King Stephen, its old buildings and strange usages continue unimpaired to this day. By a statute of five or six hundred years' standing, the porter is obliged to furnish ale and bread to all who call at the door. It was given to us, from a pewter mug, the bread on a wooden trencher. The chapel is large and curious, with nave, side aisles and transepts, and a massive Norman tower. This charity

sustains thirteen poor brethren, a master, and certain other officers.

From St. Cross we went to the county prison, which was built under the auspices of Sir William, who was then the head of the county magistracy. It seemed to me to be exceedingly well planned and conducted. All the officers, turnkeys, etc., employed in charge, have a uniform dress, which is semi-military, and the etiquette of touching the hat is observed by all when the warden passes them. They also touched the hat, as indeed did almost every man, woman and child wherever I have been with him, whether in Winchester or on his estates, to Sir William Heathcote, so universally is he known and esteemed. For many years he was the head of the county magistracy, the position of the chief gentleman in the county, in which office he succeeded Shaw-Lefevre, the Speaker; and he represented the county in Parliament until he accepted the seat for the University of Oxford. So extraordinary is his hold on the affection and respect of all, that he has never had a contested election, either for Oxford or Hampshire, though often chosen in the midst of high party feeling, and he not a compromise man, but a decided Tory and Tractarian.

At dinner we had the Dean of Winchester, the man of eighty-two years, of whom I have made mention, and the rector of the church at Enfield that we saw in the morning.

I was to leave early the next morning to visit Salisbury and Portsmouth, and was obliged to take leave of my friends over night. I cannot say with how much regret I parted from them. Sir William Heathcote is the realization of the ideal of the Eng-

lish titled gentleman on his estate, in the midst of his duties and responsibilities and honors, in his home, — the home of generations past and to come, — honors cheerfully paid and modestly received, duties performed in the fear of God, and responsibilities met and borne as a man and a Christian. What I saw was rather the ideal than an actual life, what one reads in books rather than what one ever expects to see. Wherever he went, among his tenants and dependents, the men touched their hats, the women courtesied, and when he entered a room all stood up and uncovered. Yet he assumed nothing. His manners are simple and even modest. At the same time there is no want of reserved power. He is thoroughly manly, and could vindicate his rights if required to. There were, too, as he went among them, the kind inquiries after the health and condition of the wife and children, the working of the new machine, the progress of the children at school, the repairs on the cottage, which showed a knowledge of the affairs of his tenants as well as his interest in their welfare.

I noticed that in his intercourse with various classes a distinction was quietly observed. To most he bowed and spoke kindly, and there seemed to be freedom enough; but he offered his hand only to equals. By equals I mean not titled persons, but persons of the condition of gentlemen, men of family or education, or holding recognized positions. It seems to me that in England, royalty apart, there are but two classes. The upper class comprehends the aristocracy and all persons in the learned professions, persons of university education and degrees, officers of the army and navy, and men of family and property in the country, recognized as country gen-

tlemen. In this class formerly, merchants, of whatever wealth or business, did not come. But of late a few bankers and merchants of the highest standing and enlarged business, especially if they have acquired land or parliamentary influence, are received into this class; but they are not received in consequence of, but in spite of, their occupations. In this class there is a substantial equality. Differences of rank entail etiquette and certain privileges and precedence and deference; but they are differences of degree and not of kind. There is the *genus* gentleman, and the species noble or gentle, duke, baronet, or esquire, Doctor of Laws, colonel or judge.

Lady Heathcote is a woman of excellent understanding, a judicious mother, a devoted wife, a faithful lady of the manor, a woman who looks her duties in the face and performs them; with a good deal of culture, she grows upon you; and particularly fond of botany, natural history and all forms of out-of-door life and beauty, as most English women are.

Mr. Evelyn Shirley is an excellent specimen of the old English gentleman. His family owned Eatington manor before the Conquest, are enrolled as its owners in the Domesday Book, and Mr. Shirley told me that there had never failed a succession of father and son to inherit the place for nine hundred years. Mr. Shirley represented his county in Parliament for twenty years, and when he retired his eldest son took his place. He is a Tory, highly conservative in his principles, liberal and kindly in his feelings, and as simple and unassuming as a child in his manners. I felt a strong affection for him.

Just as we parted, Lady Heathcote brought me a print of Hursley Church, Keble's church, hoping I might value it as a memorial of my visit.

August 15. Friday. Rose early and drove over to Romsey and took the cars (a word they do not use in England) for Salisbury. At Salisbury found the streets hung with flags, and at the White Hart, where I stopped for breakfast, the servants were dressed in white cravats, with flowers in their button-holes, the landlady in her best silks, and all in a flutter of excitement. "What's the matter here to-day?" "Her majesty, sir. Her majesty is to lunch here to-day."

The Queen was on her way from Plymouth to Portsmouth and the Isle of Wight, and word had been received early this morning that she would lunch at Salisbury and visit the cathedral. The train was not to arrive until two o'clock, so I breakfasted and took an open fly, with a driver who knew the country, and drove over to Stonehenge.

On my way I stopped at the site of Old Sarum and got out of my fly and walked to the top of the old castle mounds, for nothing but the mounds remain, where I had a beautiful view of Salisbury, its plains, and the long stretch of country in all directions. Beneath waved the fields of corn, over the ground where once stood the town, and these deserted fields without a house had the right to return two members to Parliament, equal to the city of London in political arithmetic, until the Reform Bill of 1831. The driver pointed out to me the tree in the field, known as the Parliament tree, under which the elections were declared. I told him the guide-books said it was cut down; but he said he had seen elections under it.

The view from the hill is peculiar, and well repaid the visit. Salisbury lies below on slightly elevated ground, in the midst of large plains, extending in all

directions about the city, and in some other parts, well wooded, watered and rich, but in long stretches to the west and north, open, bare, fed with sheep, and here and there spotted with fields of grain. Out of the town rises the tower and spire, the exquisitely beautiful tower and spire of the cathedral, the most beautiful I have seen in England. There is a grace, an airiness in the form, and a repose and a beauty in the gray hue of the stone, the true time-honored and time-made gray, without blue or any cold or disturbing tint, which completely satisfies the mind. She sits like the Queen of the Valley, and there seems to be no point, hill or vale, from which some part of the spire is not seen.

Passed the town of Amesbury, with its crooked, picturesque streets and fine old church, and after miles of riding, over an almost level plain, with sheep and their shepherds in long, silent, scarcely moving rows, looking like rows of white stones in the open fields, the road having neither hedge nor fence, but open on all sides, we came to a rising ground, on which stood a group of stone pillars, some erect, and some leaning over nearly to their fall, and some with cap-stones connecting them, all of a dark gray hue, and standing desolate and solitary, in the midst of this waste. This is Stonehenge. This is the temple of some strange religion, perhaps Druidical, perhaps older, perhaps with bloody rites and sacrificial stones, the very history of which was lost before the British antiquity began.

A few travellers were hanging about the ruins, their carriages standing in the fields. A plainly dressed man, lame, with a small collection of prints and books and maps spread out upon the ground, of-

ferred his services to me as interpreter of the mysteries. This is Mr. Brown, the author of the book and plans of Stonehenge, who succeeds his father in the office of guide. He showed me the form the temple is supposed to have had originally, and pointed out the nice evidence on which the theory is built. He showed me the sacrificial stone, the entrance exactly facing the point of the rising sun, in the middle of the winter solstice, the horseshoe form of the whole, and the three concentric rows of columns.

Around these ruins, in all directions, for a circuit of a mile or more, are mounds of earth, which have been opened and are found to be burial-places; the utensils and weapons of the dead lying by them. . . .

Wilton is a jewel of a place. It seems as if it were got up for effect. The old houses, the river running through it, the bridges, the deep shades of the trees, the park walls of Wilton Hall, and the beautiful Romanesque church, just built, at an enormous expense, by Mr. Sidney Herbert, and dedicated as a free-will offering to the public and free worship of God.

Sir William Heathcote had offered me a letter of introduction to Mr. Herbert, but I declined it, as I thought I should not have time to use it. As I passed the great gate a carriage, with four prancing black horses, postilions in full livery, and superb looking coachmen, drove out, the horses' feet scarcely touching the earth for delicateness. This was Mr. Herbert in state coach, going up to Salisbury to convey the Queen from the railroad station to the cathedral. The porter told me that Mr. Herbert was going to London immediately, so I did not send in my card.

As I drove through the streets of Salisbury, I found them filled with crowds of well-dressed people awaiting the arrival of the Queen, and flags stretched across the streets, and some sign of welcome or other from every house on the expected route, even the most humble.

At the White Hart all was in a flutter of excitement. I took a front room and planted myself at the window next the door, and in due time up came the outriding hussars, and then the advance carriages, and then Mr. Herbert's four blacks, and in the open barouche sat the Queen and Prince Albert, and in later carriages the children and suite. I had a good leisurely view of her majesty as she got out and passed into the inn. She leaned on her husband's arm. Her face looked kind and sensible and matronly, though not handsome, and her figure looked less dumpish than when on horseback at Aldershot.

The Princess Royal is a spirited, dashing looking young lady of about sixteen. The Princess Alice is quite pretty. The boys looked like any other solid, good-humored English boys, in black hats and turn-over collars.

After lunch the royal suite visited the cathedral, and thence went to the station and were off by special train to Portsmouth. I went to the cathedral close. Her majesty was in the bishop's palace, the gates of which were closed, and I stood awhile watching the crowd collected there. Soon the crowd opened a little, and a carriage drove up to the gate, a pair of spirited black horses, an open carriage, no servant, but a lady, a lady of brilliant beauty, holding the reins in her gloved hands, and easily and cheerfully guiding the prancing horses among the

crowd. Was it Boadicea driving over from Stonehenge or Diana Vernon? It was a Greek outline and complexion, filled out with English blood and flesh. I never saw a more beautiful vision. "A fine-looking woman," said I to a young workday woman that stood near. "A very nice lady, sir," she replied. "Who is it?" said I. "It is Mrs. Sidney Herbert, sir," said she.

Mrs. Herbert had driven over from Wilton to pay her respects to the Queen, in the absence of her husband. She is a personal friend of her majesty, and was the chief cause of Miss Nightingale's going to the Crimea. The crowd gave way and the gate opened, the gate-keepers bowed, and the vision vanished.

I took pains to circulate among the crowd, and everywhere I found nothing but expressions of loyalty, and in all a strong desire to see the Queen, and to testify their duty and respect. They all know her to be a good woman, a good wife and mother. So far as I have observed in England, the Queen sits firmly in the affections and respect of her people.

At the inn, after the Queen left, I was rather instructed by a conversation in the coffee-room. Two young men, who were, I think, Americans, were complaining and swearing at the waiter because they had no eels for dinner, which they had been promised. The waiter apologized, and said as an excuse, "Her majesty has been here to-day." "Did her majesty eat the eels?" "It is no business of yours or mine, sir, what her majesty eats."

The landlady was in overflowing good humor, and said, "Thank you, sir," to me, as I went by. I stopped, and congratulated her on the royal visit.

She was much pleased, and said she had spoken with her majesty several times since she had been in the house. As I followed over the railroad to Portsmouth, an hour or so behind the Queen, it was affecting to see the earnest, but humble attempts at demonstrations at every little station and roadside, although they knew that the train went by without stopping. All the people, too, were dressed in their best, and at the stations, and along the roadsides, until darkness of evening closed over us, the parents lingered, with their neatly dressed children, where they had stood to see the Queen go by. "Happy, happy people!" I could not but say, theories and political economies be as they may. How powerful is the instinct of loyalty, especially when called out to a woman, and that woman a wife and a mother and a virtuous woman; and this manifested voluntarily, as English loyalty now substantially is! How it binds up the institutions of the country with the dearest domestic ties, the unerring and powerful instincts of nature!

When the crowd had left the cathedral close, and the royal cortége had gone to the station, I took, at my leisure, my view of this perfect specimen of the Gothic art, — the art of embodying beauty and reverence to all ages.

Salisbury is the *lady of the cathedrals*. Your mind is filled with satisfaction, — a delightful satisfaction. It is not wonder nor awe, but a delightful satisfaction. The whole is built in one style, at one period, of one material, and in the execution of one design. The color fascinated me. I could not take my eyes from it, nor cease exclaiming with delight at the rich, old, soothing, yet most beautiful hue. It is a shade of

gray, clear of the cold blue of our granite. You feel that it is just the hue; that more or less white, or more or less black, would destroy it. The tower and spire are perfect. I cannot imagine, I could not desire, anything better. They fill the eye and the mind. And then the complicated yet harmonious order of the aisles, transepts, and side chapels, and the long cloisters, enclosing an exquisite piece of greensward, with their interesting roofs, — all unite to satisfy the imagination. You say, at last I have seen the thing, the ideal cathedral. Others are larger, more various, more curious, but this is the perfection — the one entire and perfect chrysolite.

Another advantage which Salisbury possesses is, that it rises directly out of the turf, which comes close to its walls in a wide close, with no obstructions of streets or houses, and the grounds about it are kept in perfect order. Nothing is left to be desired.

A canon, whom I accidentally met and introduced myself to as an American traveller and churchman, treated me with great attention, and gave me the special privilege of seeing the bishop's palace. This is in the cathedral close, separated from it only by the greensward of the garden. It is a beautiful building, of the same material with the church, in entire harmony with it. The view of the cathedral from the windows of the palace drawing-room is perhaps the best, though that from the diagonal corner of the cloisters is the view usually selected.

The interior does not, to my mind, keep pace with the exterior. It is light-colored and plain. I have seen interiors that I prefer to it. Westminster Abbey much, perhaps also Winchester. Passing out again, at the corner of the close, I took my last view

of the congregation of walls, roofs, windows, tower and spire. It has taken possession of the heart. . . .

Rail from Salisbury to Portsmouth. On my way I had a good view of Chichester cathedral. It is large, stately and graceful. The spire is tall, but nothing seen to-day could enter in where Salisbury had possession.

The train stopped at Romsey. I saw a lady alone, crossing the rail, and coming towards me. It was Lady Heathcote. "Are you alone?" "No, I have my carriage, and my mother is with me." She then explained to me that the letter which was to be sent to Portsmouth for me from the First Lord of the Admiralty to admit me to the docks had been sent to Hursley Park, and she had posted it to Portsmouth, and handed me a note of explanation in case it did not reach me. This was kind indeed. She did not admit it, but she had driven over to Romsey on purpose to meet me, lest there should be some mistake. She had her pony carriage, with her two ponies at the door, and Mrs. Shirley in it. I took leave of them again with many thanks. They had driven eight miles, and had eight to go, though it was nearly dark. Where do these people put the limit to their attentions?

On my way down I found in the car with me an English farmer of the middle class, a heavy, beef-fed, big-fisted fellow, full of prejudices as of meat. He said the laborers and servants of the country were being ruined. "And strange to say, sir, our church is at the bottom of it." "Indeed, I am sorry to hear that. How is it?" "Why, they are educating them. The church and the benevolent people are giving the poor children education for charity. Now,

there 's no use in making a charity of reading, writing and arithmetic. When it 's proper they should know these things, there 's no master or mistress but will see they are taught them. Then these ladies teach 'em to do crochet work. (Here he made an absurd imitation of crochet, working with his great clumsy fingers.) And then, instead of making a coarse frock for their father or brother to work in, they are doing *crochet* work. (Another imitation.) And then, if master or mistress rings the bell, no answer; ring again, no answer; ring again, no answer. You go up-stairs to see what the matter is, and she 's *writing a letter!* No, sir, that won't do. There'll be nobody left to milk the cows and scour the floors."

Reached Portsmouth at early evening. The streets are full of soldiers and sailors. No town in England is so completely naval and military as Portsmouth; and now the return of the Crimean regiments makes the town fuller than usual. Every other man you meet is in uniform. At the hotel, the George, young Crimean officers were dining, having just met in the street after months of separation. Drums beat in the street, and detachments passed under the windows to mount and relieve guard.

After dinner I walked about a little. How redolent is everything of the gigantic naval force of England. Sailors swarming about the countless grog shops and unconcealed brothels, singing, loud talking, lounging — and now and then detachments going to and fro, in martial order, and women swarming like fire-flies in a field. How narrow and crooked are the by streets and lanes, and how old and low-roofed and redolent of tobacco smoke and grog are the

rooms, — the same lanes and streets, the same rooms in which the sailors of Nelson and Collingwood, Rodney and Howe, drank and sung and rioted and were led to ruin.

August 16. Saturday. Presented myself at the Dock Yard gate with my letter, which I took from the post-office. "Are you a British subject?" "No." "Then you cannot be admitted." I presented my letter. They examined the book, where my name had been entered by an Admiralty order. . . .

I saw the rope-walks, the timber docks, the wonderful block-cutting machinery, the iron and brass foundries and cutting machines, the huge store-houses and docks, and visited several of the vessels. I went all over the *Victor Emmanuel*, one of the largest and latest specimens of the screw ships of the line, and saw the time-honored *Bellerophon*, *Blonde*, *Illustrious*, and other names famous in story and song. Then I took boat and went on board the *Victory*. This ship, sacred to British naval glory, lies at anchor a little below the docks, and is kept in complete repair and used as a receiving ship. The memory of Nelson hangs over her like a cloud. As I drew near I thought how often his eye had rested upon her with hope and pride. I ascended the gangway and stood on her deck. A piece of brass plate in the main deck (not, as I supposed, on the poop, but on the main quarter deck), between the poop and the mainmast, marks the spot where he fell. A petty officer was ordered to show me the ship. He took me below, through the three gun-decks, through the berth deck, down, down into the low dark cock-pit. There, in a little room, so low that the shortest man cannot stand upright, the light of day never visiting it, by the

light of a swinging lamp, reclining against the timber knee which the guide pointed out, there lay the dying Nelson, the thunder of his own battle dimly heard overhead, the ship thrilling with the agony of the contest, there he called Hardy — “Kiss me, Hardy!” There he heard of his victory, and there his life went out. I had seen enough. I cared nothing more for the guns they showed me nor the traditions of the fight. The human interest always overpowers every other.

Dined and took train for London *via* Brighton. Had a good view of Brighton.

In the same carriage with me were two young naval officers, just returned from the Crimea, where they had served on shore in the distinguished naval brigade. One of them, the younger, who was a handsome, cheerful, gallant, pleasant fellow, had been an aid-de-camp, saw the Redan attack, had been in several repulses, and served day and night in the trenches. I was much pleased with his frank, cheerful way. In the course of conversation he spoke of the Cumberland and Halifax. I asked him if he was on board the Cumberland at Halifax. He was. I had been on board and seen several officers. He was a midshipman then. I named two midshipmen who took me off in a boat, and the first lieutenant, and mentioned having seen Prince Victor, the queen's nephew, who was on board, and had a good deal of conversation about the navy, the royal family, whom I had seen yesterday at Salisbury, etc.

The next morning I went into the Colonnade in Haymarket, to breakfast, and came upon the elder officer. He came up. “Oh, we missed you last night at the station. You went off. My companion wanted

to show you some attentions here. You know who that was, don't you?" "No," said I. "That was Prince Victor." "Indeed. Well, he's a good fellow. But I hope I said nothing out of the way about him or the royal family." "Oh, no; you were all right. He wants to see you, but has left town to-day for Boulogne."

I breakfasted with the officer, and we parted with exchange of cards, etc. This other officer was a man of no note; yet, although I was several hours with them, there was nothing in their intercourse from which any one could suspect that there was any difference of rank between them. It rained hard all this morning, the second rainy day I have seen in England.

In the afternoon it cleared up again, and I took cars for Walton-on-Thames to see the Storys and Appleton. They were dining at Russell Sturgis's, where I joined the party. Sturgis lives in a superb house, in the Italian villa style, terraced down to the Thames, built for Lord Tankerville, too expensive for him, and bought by the American banker.

The Storys and Appleton have taken a very pretty house on the river side, with lawn, old trees, vines growing over it, and the quiet of an English country house. Here I passed the night and breakfasted.

August 18. Monday. Spent the morning at the Vernon Gallery and the National Gallery. The series of Hogarth's *Marriage à la Mode*, six in number, richly repay one for a visit to the Vernon, if there were nothing else there. In the National are many fine pictures of the masters, especially of Murillo.

At 8.30 P. M. took the train for Dover *en route* for France. The arrangements for passage from

London to Paris are quite complete. You take tickets through, and your luggage is checked through, and each packet is numbered. The journey is made in thirteen hours. Leaving London at half past eight, you breakfast in Paris.

We reached Dover at about 11.30 P. M. in a drenching rain and took the little steamer to cross the Channel. The Channel steamers are small, mean and with very poor accommodations. It is surprising that they should remain so, with the great travel between these countries. I spoke to the captain about the boats, and he said they were large enough for the trade.

The little boat rolled and pitched and jumped about, as if it had lost its wits, like a kitten on a carpet. The passengers were dreadfully sick, and excruciating sounds came up from the cabin. I took my stand by the mast, and kept it without moving, for walking deck was out of the question, until we ran into Calais pier. I was almost the only passenger not sick.

The lights can be seen across the Channel. From the cliffs of Dover they see the brilliant light on the Calais pier, and from the Calais pier they see the lights on the South foreland. There was old Calais, the Calais of sieges, conquests, landings and expulsions. No one can cross this Channel, or look from shore to shore, without thoughts of what has been done and seen and attempted on these opposite banks, dividing the two great nations of Europe. English and French history seem to have made here a concentration of its interests.

I stepped on the shore of the continent of Europe. I heard a new language and saw a new people. It

was about two o'clock in the morning, and all was still on the fortifications and grass of old Calais. We passed into a large office where was an attendance of armed police; and at an inclosed desk sat three men examining passports and making entries in books. We were as effectually prisoners as if we had been in the Fleet, although all had the appearance of a common railroad transaction. Passports approved and viséd, we were passed out, and took our places in the train for Paris. The arrangements are perfect; so much so, that one feels like a child to be taken care of. The conductors are very civil, and exact inquiries are made of each passenger, wherever there is a branch train, or a station, to insure that he makes no mistake; and at each station you are told the name of the place and the time of stoppage. At Amiens we had ten minutes, and it being after day-break we stepped out and passed into the refreshment-room, where we got the nicest cups of French coffee and the neatest little pieces of bread and cake, a foretaste of that French tact and taste which no other people equal. Why should English coffee be unfit to drink and French coffee excellent with the intercourse there is between the people?

It was nine o'clock in the morning when we were let down at Paris. I had slept most of the way, and saw but little of France. From what I saw it seemed to me that the country was less rich and green, less populous and less cultivated than England, but with more variety of surface and scenery. At Paris you are again a prisoner until your passport is examined. While this is doing the luggage is arranged in numerical order, and you go at once to your number, and the porters take it to your carriage.

I took the outside of an omnibus, and with the driver for my guide got my first view of the great capital of pleasure, science, art and war.

The main streets are wide, mostly straight, and swept nearly as clean as floors. The houses are of light-colored stone, looking neat and fresh, and there is an indescribable air of ease, elegance, taste and pleasure about the city, and all that inhabit it. The open places have their fountains and columns and statues, and every great public building seems to be well placed, with open grounds about it. There is no smoke, no darkness. Seats are placed along the wide side-walks, under the trees, light, graceful seats; and here people are reading the morning papers and drinking their coffee. It is an out-of-door world, this Paris; and how pretty the shops are, and there are no beggars, no low people,— what does it all mean? We passed the Madeleine Church and Boulevard, turned into the Place de la Concorde, got a view of the Champs Elysées, saw the front of the ancient Tuileries, with its high-pitched roofs, saw the Arc de Triomphe in the distance; the garden of the Tuileries, with its high iron fence tipped with gilding, was by our side, and I was set down at Maurice's Hotel.

This has a court-yard in the Continental fashion. My room is up five or six flights, but it looks out on the Tuileries, so I am content. . . .

Took an open carriage and an intelligent driver, with Bradshaw's map and book in my hand, and having but three days for Paris and Versailles, I made the best of my time. The Nortons were astonished at my performances when I came to make my report at night. I had seen the following places: The

outside of the Louvre and Tuileries, the Place Carrousel, the Place de la Concorde, driven through the Champs Elysées, the Place Vendôme, and under the Arc de Triomphe; visited Notre Dame, the Panthéon (Ste. Geneviève), St. Germain l'Auxerrois, the Sainte Chapelle, and seen the outside of the Madeleine; seen the Tour de St. Jacques, the Morgue, and the Hôtel de Ville, and the window from which Lamartine addressed the crowd, perilling his life and all against the red flag and red republicanism, the Column of the Place de la Bastille, and the site of the old Bastille. I had driven along the chief boulevards and across the Seine and along the beautiful Quai d'Orsay, seen the Conciergerie and the Hotel Cluny. I had examined the interesting old Palais Luxembourg, passing through all its open rooms, and rooms that a fee will open; seen the Senate Chamber, and the hall of the Chamber of Deputies, in the Corps Législatif, where the mockery of a representative government is enacted. I asked for the tribune. There is no tribune. It is removed. As well it may be, since there is no freedom of speech. I also examined, which was not on Norton's list, the Church of St. Etienne du Mont. I had driven through the Rue de Rivoli, the Rue de la Paix, and the Boulevards des Italiens and des Capucines, etc. I had entered the Palais de Justice, passed through the Salle des Pas Perdus, saw a cause in hearing before a bench of three judges, the counsel dressed in black silk gowns and black caps, quite becoming and forensic, and the judges in black silk gowns.

This was a full day's work, and it is not to be denied that the impressions left were somewhat confused. Yet the several ideas remained of the nicest

order, quiet and taste, and a lavishness of expense and a presence everywhere of the glories of France. An intense nationality and a systematic administering to its vanity and pride are shown at every point. You feel, too, the order and security of a powerful government. At every turn are the police, not a civil police like that of London, but military, armed with a sword, and dressed in *chapeaux bras*. Every tenth man is a soldier, and conspicuous among them, the observed of all observers, are the zouaves, with their picturesque dress of white turban, red fez, blue tunic and loose red bags for trousers. They are dressed open in the neck, as low as a Greek tunic, and have a swarthy piratical look. They have a rapid, active, swinging gait, most unmilitary, according to English notions, but with a look of efficiency and energy not to be mistaken. Great liberty seems allowed to the military, for they appear to fill the streets. I saw several bodies marching to and from guard-mounting. They are unlike our soldiers, and even more unlike the English. The drums, without fifes, go before, beating a sharp, quick beat, and the soldiers follow in easy lounging gaits, usually but not always keeping step, and looking freely about, up at the windows and at the people on the walks, the object seeming to be to get over the ground in the easiest and quickest manner. How different is the exact, formal movement of the British.

Dined with Norton and Greenough at the *Café Riche*. Norton gave us a capital French dinner, with good Burgundy, ending with *café noir* and *liqueur*. Thence to the *Théâtre Français*, the regular legitimate French theatre, where Molière is scrupulously played without change. The acting is admirable. I

never saw high comedy acted before. It is an art which, it would seem, cannot be exported from France. The actors played like real gentlemen and ladies, with a severe simplicity of manner, such as the best breeding only secures, without grimace or exaggeration and entirely without, what we invariably have, a by-play with the audience. The play is acted through as if there were no audience.

The theatre is large and light, and the audience showy, very attentive to the play, and easily excited to applause, a contrast indeed to the dull, heavy look of an English theatre.

August 20. Wednesday. Walked out, through the Rue de Rivoli, which Napoleon has extended so grandly past the Louvre, making it one of the finest streets in the world, to the Palais Royal, and breakfasted at the famous café of Les Trois Frères Provençaux. Excellent coffee, perfect bread, nice butter, nice omelette, and a look and air about everything as though all the people were in just the places they were made for, and were perfectly happy in them. It seems a pleasure to the grisette to keep shop, her happiness to wait upon you; the café man feels that his calling is a fine art, and when your coachman touches his hat and asks you "Quel numéro, monsieur?" and you reply, "Numéro quinze," he replies, "Numéro quinze, oui monsieur," with a smile and a look as though it was the happiest moment of his life when he learned that it was "numéro quinze" you were going to. The English servants and laborers I have found always civil, and sometimes servile, but the French are polite.

Dined at a restaurant in the Palais Royal, and in the evening went to Franconi's. Here, again, one sees

the superior genius of the French for spectacles. Equestrian and gymnastic exercises are usually the most monotonous and tiresome of spectacles ; but here the size and brilliancy of the interior and the skilful arrangement of pieces, as well as their perfect performance, with the excitability of the spectators, made the whole scene brilliant and animating. There was some admirable riding by a woman dressed in a riding habit and black hat.

From Franconi's I drove to the Jardin d'Hiver. This is a large building roofed with glass, containing great varieties of plants and trees, arranged so as to form walks and recesses, with cafés and restaurants interspersed, and a large dancing floor in the middle, all brilliantly lighted with gas. Here assembles, every night, a crowd of dancers and loungers. The dancing was animated and in perfect harmony of movement with the music, although the number of dancers was large. Whatever may be the character or calling of the people who resort here to dance, the conduct of all was proper, and nothing appeared to indicate anything disreputable, which a London room of this sort would soon develop. Indeed, such is the combined effect of the politeness and self-respect of the lower classes of the French, and the thorough police system, that one sees, in the streets or public places (I speak from the observations of others as well as my own of two days), few, if any, signs of either the vice or the pauperism of a great capital.

August 21. Thursday. Immediately after breakfast I took the train for Versailles. Passed within sight of St. Cloud, which reposes among its deep trees, and Montmartre, which stands out with its picturesque windmills, skirted the Bois de Boulogne, and

was set down at Versailles, the city of Versailles, — for a city it is, once containing one hundred thousand inhabitants, and even now about forty thousand. It is regularly laid out, with wide streets, and the houses are handsome and lofty, built for the grand courtiers of France. But all other interests are lost in that of the palace. There it stands before me in its splendor and almost incredible magnitude. Well may it have ruined a monarchy. Such wanton luxury, such unrestrained and frantic lavishness of expense, is more than the Almighty intended for any race of human beings to enjoy, or any other to be taxed for, and the penalty must be paid. Dearly and dreadfully was it rendered. There is the high road from Paris, along which came all the people of Paris, the mob, the poor, the starving, in their frenzy, and the better conditioned, in their resolute determination, and tore the revellers, the luxurious, pampered, sublimated despisers and forgetters of the people from the seat of their untold and almost unimagined luxury, and the blight fell upon it forever.

“Alas, alas, that great city that was clothed in fine linen and purple and scarlet and decked with gold and precious stones and pearls! For in one short hour so great riches has come to naught. And the voice of harpers and musicians and of pipers and trumpeters shall be heard no more at all in thee, and the light of a candle shall shine no more in thee, and the voice of the bridegroom and the voice of the bride.”

No sovereign can inhabit it more. Its costliness is too great, and the fears of the people would be fatally excited. It is now dedicated “à toutes les gloires de la France,” and it has become the grand repository

of the paintings and monuments and memorials of the public men and public history of France.

I shall make no attempt to describe the palace, its halls, its ante-rooms, its sleeping chambers, its boudoirs, its closets, its galleries, its streets of rooms, its gold and precious stones, its curiously wrought wood and stone and marble. Enough to say that you may let your fancy run riot in imagining generations of despotic monarchs, unrestrained, building pile after pile, gallery after gallery, and adding splendor to splendor and luxury to luxury, and yet fall short of the reality. In the midst of these is, almost hidden from view, the sumptuous theatre, which has not its superior in the world, and the chapel, where to luxurious courts, Bossuet and Massillon preached, and where Marie Antoinette was married; and looking upon these magnificent gardens, with their fountains and statues, grounds which thirty thousand soldiers were diverted from their martial duties to prepare, is the luxury of luxuries, the splendor of splendors, the galleries of Louis XIV. You are ready to cry out to luxury, "Stay thy hand. It is enough."

Hours are required, walking all the while at a rapid pace, and only casting the eye over the general effect and design of each, merely to pass through the galleries and rooms filled with pictures, representing chronologically all the events of French history from the earliest, half mythical battle or feast, to the latest victory, or civic national act, and interspersed among them the portraits or busts of every man of the slightest note in history. Galleries of all the admirals, galleries of all the marshals, and galleries of all the orators, poets and scholars. In one gallery are the busts of officers killed in battle, with the name of

each, and "tué à Marengo" or "tué à Austerlitz" in long vistas. How skilfully is the pride, the martial spirit of France, ministered to by her rulers!

Even amid all these splendors, personal interest triumphs. The room where Marie Antoinette slept when the people burst into the palace, on the 5th of October, 1789, and the corridor by which she escaped to the *Œil-de-Bœuf*, and thence to the chamber of the king, exceed all other spots for interest. Here, too, is the splendid bed-chamber of the king, where is the famous and infamous *Œil-de-Bœuf*, where the courtiers awaited his coming forth, and so much leisure was so scandalously spent.

But even beyond the palace itself, the interest of every visitor who has read and felt the touching personal histories of Marie Antoinette and Josephine are the Grand Trianon and Petit Trianon, hidden in the seclusions of these almost endless forests.

The Grand Trianon has only a single story in height. It was built, as all know, by Louis XIV. for Madame de Maintenon. Without the troublesome style of a palace, freed from the servitudes of royalty, which were all drawn to the great palace hard by, these off-residences, these quiet, simple retreats, have an exquisite charm. They are each, though different in style, the Petit Trianon being smaller but of two stories, in perfect taste and of costly, but rather simple finish. Here you are shown the sleeping-room, the little library and boudoir, the dressing-room of Marie Antoinette; the sleeping-room and boudoir of Josephine; and, as the last relic of royal misfortune, the chamber of the Duchess of Orleans, the heroic widow of Louis Philippe's eldest son.

The two Trianons are about a half mile apart, and each about half a mile or more from the palace. They are secluded in the woods, as charming for situation and arrangement as the heart can wish, and form a delightful relief from the oppressive grandeur of the palace.

A little beyond the Petit Trianon is the little rustic village built by the fancy of Marie Antoinette, and here I saw her dairy, her mill, the bakery, the cow house, and all the nice arrangements where this "Splendor's fondly fostered child" relieved her satiated spirit, by playing at the simplicities of rustic life.

My guide, who had beaten the drum for a grand charge in Egypt, under Napoleon, and wore the ribbon of the Legion of Honor, led me through the long avenues overhung with trees, past the glorious fountains, by the classic temple and statues of the gods and goddesses of Greek and Roman mythology, to the rustic *salle de dance*, where the courtiers danced in summer, and where said he, on such a night, Marie Antoinette danced her last dance.

A last look at the magnificent pile before me, a last look down the avenues to the half-hidden Trianons, and with a sense of dreamy vision, not knowing of a surety that I had seen Versailles, but perhaps been in a trance, or been looking into the glass of some potent conjurer, I found myself again in the streets of Paris.

In the evening I left for London. But there was still time for a rapid drive to the *Hôtel des Invalides*. So, again across the Seine, down the beautiful quays, which line both banks of this river, making them minister to the beauty, and not to the trade of Paris,

I drove to the Invalides. It is a glorious monument of the gratitude and care of France for the disabled ministers to her military glory. The gorgeous effect of the dome I never saw equalled. Under the dome, in the chapel, a small band of old soldiers were bearing a comrade to his burial, the priests walked before, chanting the service, in the "bannered aisle," and the old soldiers, armless, legless, maimed, halt, lame, still shuffling along to the music of the drums, striving to keep up the form of their early life, followed after the lighted coffin. It was a touching sight. . . .

Drove round the Champs de Mars, which is a large levelled field, inclosed for military reviews, and returned to my hotel in time to dine and take the evening train for London, having spent just fifty-eight hours in Paris, and in that time seen a great deal of this splendid capital. . . .

Such as it is, with all the concealments and gildings over of the crime there is known to be, and the poverty there must be, with all its religion, showy or earnest, its irreligion open or concealed, its science, its arts, its taste, its politeness, its splendid civilization — I am thankful for the few hours I have been able to spend in it, and for the new ideas and new pictures it will furnish me for life.

Reached Calais about two o'clock in the morning. In the clear air the fortifications of the venerable old city stood out in bold relief. Again was the visé-ing of passports, the little steamer, the pitching and rolling of the Channel, though less than before; again the splendid light of the Calais pier flashed across the Channel, answered from the crowned heights of the North Foreland. Day broke as we crossed the Chan-

nel, and when we drew in to the port of Dover it was clear day, and we had a fine view of this most picturesque spot, of which far too little has been said by travellers. The cliffs, of white chalk, are high, steep and overhang the sea, which beats itself in pieces at their feet, an ancient castle crowns the hill at the entrance, the town gathers itself between the hills and the beach, and this morning, to add to the effect, the hills were covered with the white tents of the newly returned regiments that lie there encamped. The steepest cliff is called Shakespeare's, in memory of his description in *King Lear*.

Returned to London for the fourth time. It seems quite like home; Regent Street, the York Column, and Trafalgar Square look almost as familiarly to me, as if I had always lived here. . . .

Wrote letters to all whom I was bound to address, — to Mr. Gladstone to decline his kind and cordial invitation to visit him in Wales, to Lord Landsdowne to apologize for not calling before he left Richmond, to H. T. Parker with a present to Mrs. Parker from Paris, to Parker, to Senior, to Lord Cranworth (from whom I also found a pleasant note of leave-taking) and the Duke of Argyll, Sir William Heathcote, whom I love as much as I respect, and to dear, kind Mrs. Wood of Shrewsbury. Bithney packed my trunks for me, and I took my last leave of London — London which has been to me a new world. . . .

August 23. Saturday. Set sail from Liverpool, this afternoon, in the new and splendid steamer *Persia*, which has just crossed in eight days and twenty-three hours. She has over two hundred cabin passengers. Took my last look of the green shores of old England, her dear towers and trees, her cottages and

village spires, the homes of so much of great and good, of honest and kind, — England, the salt of the earth. Passed Holyhead, and am out in the broad Irish Channel. . . .

September 2. Tuesday. This is the tenth day of our passage, and we expect to reach New York to-night or early to-morrow morning. The first three days of the passage were very disagreeable, with a heavy, broad sea, and the ship pitching a great deal. Most of the passengers are seasick. . . . I have been in high condition, enjoying the bad weather and heavy sea. Once, for a few minutes, I felt a little sick after a long dinner in a close room, but it passed off immediately; and generally I enjoy a heavy sea and pitching ship. Perhaps there is a little pride generated by the contrast, as one rolls through the passageways, in rough wet clothes, with a cheerful face, redolent of outer air, among the wretched, helpless creatures below. . . .

By leave of the officers I went below, to see the great works of fire and steam that move this vast bulk and its freights through the water. Here is a world unknown to the common passengers. Hundreds cross the ocean in these boats, and know nothing and see nothing of the power that moves them. As all the machinery is under deck it can be seen only by those who visit it below. Except the chimneys and the paddle-wheels, the passenger sees nothing but what the decks and cabins of a sailing ship might disclose. He talks of the winds and speed, and watches the sails and the unimportant manœuvres of the deck, while all the time, down in the abysses of the hull is working, with ceaseless energy, day and night, day and night, the enormous complex

machinery, — these huge boilers are steaming, and forty fires, fed at forty iron doors, opened and closed ever and anon to be replenished, are keeping up a body of flame, hundreds of cubic feet in measurement, supplied with coal at the rate of nearly one hundred tons a day, — and all this bulk of flame, of steam, of water at boiling heat, inclosed within the walls of a vessel with hundreds of human beings, alone on the great ocean! It is a great spectacle, to be sure! but, so far from exciting my admiration as a triumph of science and skill, it seems to me a reproach to the science of the age that this must be. Such a bulk of imprisoned fire, an imprisoned power of steam sufficient to destroy the ship and all it contains, requiring a cargo of so many hundreds of tons of coal, for a single Atlantic passage, — all this, with its perils, and its huge size, to transport men and women over the water, when the immense latent power of electricity and galvanism is known, — this is rather a discredit than an honor to our century.

In these deep and unknown regions, down by the keelson of the ship, led to by stories of winding stairs, in the glare of the opening and closing furnace doors, live and toil a body of grim, blackened and oily men, stokers or machinists, coal carriers, fire-feeders and machine tenders, who know as little of the upper ship as the upper ship knows of them. When down among them on the brick and iron floors between the walls of brick and iron, amid the sights and sounds of their work and care, I lost all sense of being at sea, or even on ship-board, and, for aught that I could hear or see, might have been in the subterranean recesses of a steam factory in Staffordshire. . . .

At my table is a set of Canadians who eat and

drink incredible quantities. They are traders coming home from their fall purchases. They eat five meals a day, breakfast at eight and a half, lunch at twelve, dinner at four, tea at seven, and supper at ten; and before breakfast, lunch and dinner they take bitters. They have become quite notorious.

The great Canadian feeder we call "Bags," because we suppose him to be a bagman. He came to breakfast one morning, ate a plate of porridge and then a plate of Irish stew, and then a few slices of thin ham, and then had his plate changed, and a fresh plate and cup of chocolate, and said to his neighbor, "Bentley, what shall a man take for breakfast? Will you go a steak?" "Yes," said Bentley. "Steward! steward!" said Bags, "a steak for five!" "What are you going to do with five?" asks Bentley. "Why, you and Cameron will go three, and I do the rest."

One day at lunch I said to Lyman, "Lyman, Bags is gorged. He can't drink that tumbler of porter. He is chock full."

"I'll bet you he drinks it," said Lyman. "Done," said I, and we watched him. He was evidently full. He sat looking at it for some time, and then rose, put his hand over it, and carried it to his state-room to drink as soon as he could hold it. We burst out laughing, and agreed to call it a drawn bet. . . .

Another odd character on board is a New York dry goods merchant, a prosperous, well-dressed, middle-aged man, who adheres to the "Journal of Commerce," is a prominent officer of tract and Bible societies, and talks high Calvinism at the table, is particularly loud and eloquent on total depravity and election and justification by faith only, and has such

a comfortable arrangement of faith and duties, that he drinks a great deal of champagne and hot whiskey and plans elaborate salads, pampers himself in all ways, and tells Lyman and the young men that he is assured of his own salvation, feels no fears at all on that score, is, as Cameron profanely says, "booked through," and has a horror of the infidel tendencies of all reforms and of the "Tribune" and of anti-slavery, and says that the Lord will take care of slavery in his own time, and we must not trouble ourselves about it. What a strange jumble! He is an amiable, well-meaning man, withal. I have named him "Defensor Fidei."

September 3. Wednesday. Took a pilot last night. This morning made the Narrows, and came up the beautiful bay of New York, which has no equal in any ocean scenery I have ever visited. We passed through the Narrows, along Staten Island with its sloping hills, studded with country houses among the islands, under Brooklyn Heights, along the quays of the city, past its forests of masts, to our berth in the dock. How brilliant is the scene! How gay are the white and gilt steamers, the painted country houses, and how the landscape glitters! What activity and life! Here is a bright, piercing sun and clear sky, and all nerves set to concert pitch. There, across the water, in old England, is a mild sky, a mild sun, repose and quiet tints. There is maturity, fruition, and the culmination of civilization. Here is youth, hope, progress and earnest action.

In two short months I have seen both. It is something in that brief time to have known two worlds.

CHAPTER II.

REMINISCENCES.

IT was shortly after Dana's return from this English trip that my close personal acquaintance with him began, for on the 6th of October, 1856, I entered his office as a student. Dana had passed his forty-first birthday in London on the 1st of August preceding; while I was a little over twenty-one, having graduated at Harvard in the previous July. The relations between a lawyer in active practice and a student in his office may amount to almost nothing, or they may be very close; in Dana's case the chances were large that, under ordinary circumstances, they would amount to nothing. While always a gentleman in his bearing towards those associated with him in a subordinate way, Dana was formal in manner, and one who did not in the office encourage ease or familiarity; but it so chanced that his relations with me were for various reasons peculiar and naturally close. There were underlying bonds of sympathy. In the first place I approached him on what was always with him a most approachable side, — the side of family and descent. Hereditary and traditional relations had long existed between the Danas and the family of which I am a member, though then a youthful one. Indeed, my very name bore testimony to the fact, for my grandfather had given his third son the middle name of Francis, after Francis Dana, the former Chief Justice of Massachusetts. Nor was this an ordinary case of compliment through name-giving; on the contrary, it recalled historic memories, and was associated with those troublous times and great events,

when Francis Dana, during the Revolution, was commissioned by Congress to go to St. Petersburg to secure, should it prove possible so to do, the sympathy of the Czarina Catherine II. for the struggling colonies. At the time he was selected for this mission Mr. Dana was secretary to John Adams who was busily engaged negotiating the Dutch loan at Amsterdam ; and on the 7th of July, 1781, when the newly appointed minister began his journey to St. Petersburg, he took with him to act as his secretary and French interpreter John Quincy Adams, a lad not yet fourteen years old. Young John Quincy remained in Russia until the end of October, 1782, when it having become apparent that Mr. Dana's mission was not likely to succeed, and as he did not care to face another winter in St. Petersburg, he returned to Holland, rejoining his father at The Hague in April, 1783. Twenty-seven years later, by naming a son after Mr. Dana, he showed that he still held the early relations with his former chief in kindly memory, though only a few months afterwards he severed his own connection with that political party to which the old Chief Justice continued to adhere until his death.

Thus by my name I was associated in Dana's mind with his grandfather ; and such a family connection, dating back well into the last century, with him went far. The extracts quoted from his diary have shown how intimate and harmonious his political relations with my father continued to be from their first meeting at Buffalo in 1848 ; and my father, moreover, had in several legal matters retained Dana as his counsel. Accordingly, I entered Dana's office on a somewhat different footing from the ordinary student, and afterwards that footing was maintained.

In October, 1856, Dana had just moved from 32 Court Street, where his office had been through all the time of the fugitive slave cases, to the iron-front building then newly erected on the site of the old Brattle Street Church-parsonage, which faced Court Street from the time of John Hancock down to the year 1854. The firm was known as Dana

& Parker, and the two men, Richard Henry Dana and Francis Edward Parker together, certainly presented a remarkable combination of ability, attainments and character.

Of Mr. Dana something has already been said; of Mr. Parker it would not be easy to say enough, and yet say it fittingly. He is now gone, and, after the manner of lawyers, he has left hardly a trace behind him, for his name is rarely seen even in the volumes of reports; but he will not be wholly forgotten until the last of those who were closely associated with him have passed away. The only son of a clergyman who was for years settled over a parish in Portsmouth, N. H., Mr. Parker graduated from Harvard in the class of 1841, its first scholar. Later, for he had to make his own way in life, he studied law at Cambridge and in the office of Mr. Dana, and when in 1846 he was admitted to the bar the two entered into a law partnership which was continued until, in 1861, Dana became United States District Attorney. It was for Dana no small misfortune that the partnership was then dissolved.

Himself a man of remarkable ability, Mr. Parker always insisted that Mr. Dana was a man of genius; indeed, in a letter which he wrote immediately after hearing of Dana's death, he spoke of him as "the only man of genius I ever knew." The two were unlike in almost every respect, yet between them there was to the last a strong bond of friendship and sympathy. While each in his own fashion seemed to find a keen pleasure in noting and commenting upon the idiosyncrasies peculiar to the other, each at bottom respected and even admired the other. Of a good height, with a thin and erect figure, scrupulously neat in attire, Parker had a strong face alive with intelligence, an intellectual forehead, a firm mouth and a thin prominent nose. In his face he bore a striking resemblance to Thomas Carlyle, as he appeared in the portrait prefixed to the earlier American edition of his essays. Mr. Parker's eyes took in everything, and his mind was always on the alert. A thorough man of affairs, he was also in the best sense of the term a

man of the world, though no man could have led a purer life or been simpler and more regular in his habits. Well educated, with a keen and ready wit, a retentive memory and a full command of his resources, he impressed all who came in contact with him, for he was withal a great observer who looked quite through the deeds of men. The most brilliant and humorous of talkers, his delight in latter life was the European voyages which he yearly made, during which almost daily he would hold forth on men and things to those who gathered round the table at which he sat, and listened and were amused until the stewards came to prepare for another meal. He had in him great possibilities, and might well have risen to eminence in his profession. Dana always asserted that he would have made a model judge, for, though his knowledge of book law was not great, in place of it he had quickness, common sense, insight, and a complete command of whatever law he knew. There was in him no lumber of learning, but he knew men. I have always believed that if Parker had been born in England and by any chance called to the wool-sack, he would have left behind him not only the reputation of an able and acute Lord Chancellor, who had disposed of the business of his court with an unequalled facility and correctness of judgment, but he would have been long remembered also as a talker more brilliant, caustic and incisive than Bethel.

Unfortunately, with all his great ability there was in Mr. Parker's temperament a morbid vein, which, as he advanced in years, became more pronounced. He was cheerful, and always considerate and kindly to those about him, especially to his inferiors, who uniformly, it is no exaggeration to say, well-nigh adored him; but he seemed to take a perverse satisfaction in suppressing himself. He lived alone in chambers, and did he find that he was beginning particularly to enjoy any form of human sympathy or to depend upon it, he forthwith would cut himself off from it. Though naturally in many respects a domestic man, he did not

marry, and he never knew even the domestic life of a house-keeping bachelor. Though greatly sought after as a diner-out, he would dine out but rarely. His evenings and a large part of his Sundays he passed at his office, and his one great recreation as the years went on was his annual visit to Europe, during which he rarely entered a private house, and never gave a foreigner opportunity to return those civilities which he was foremost to show to foreigners in his own country. No American would have been more welcome or achieved a greater success in English society; but he never gave English society a chance to give him a welcome or make a success of him. In 1865 he served a term in the upper branch of the legislature of Massachusetts, and his incisive speeches and witty sayings there were keenly enjoyed and long remembered. Once when drawn out by some slurring and ill-considered attack on Harvard College, he literally crushed and annihilated his offending and astonished colleague by what the traditional Secretary of the Senate always referred to as the most striking and impressive oratorical effort he ever listened to in that chamber. During the few months of his single legislative term at the state-house he greatly enjoyed the prominence he at once and naturally assumed there, and the consideration it brought him; but he could not be induced to accept a reelection. He seemed to regard this taste of public life as a sort of trap most temptingly baited, but calculated to allure him from the narrow rut of his profession. As he grew older he confined himself to that rut more and more closely. Death finally took him out of it suddenly and as he would have wished it to take him, in January, 1886, and his going left a noticeable void not again to be filled in the lives of those who had been fortunate enough to be in any way closely associated with him, or to know him well.

Such was the junior member of the firm of Dana & Parker when I entered their office in October, 1856, and during the time I remained there. As I have already

said, Parker regarded Dana as a man of true genius; and on such a point I have known no one more competent to judge than Parker. Regarding Dana as a man of genius, Parker accepted all his foibles as the inseparable accompaniment of genius; but in conversation he was unsparing of them. Indeed, whenever an intimate friend met him, he invariably seemed to have on hand some new and characteristic, but, withal, somewhat back-handed anecdote of Dana, his sayings or doings. None the less for years and, in fact, to the end of Dana's life, Parker was the best and truest friend he had. He might be said to have taken care of him, for not only was he his business adviser, but he was his trusted friend and confidant in all troubles and difficulties; and a better and safer one could not have been found. He had what Dana did not have, a vast amount of worldly wisdom; which at times tended perhaps to make him unduly cautious. So when Dana had Parker at his side the only serious mistake into which he fell was that of overworking. Otherwise he was from a worldly and material point of view well cared for.

In the matter of work Parker did not and could not supervise Dana; for, though the two were partners professionally, in the practice of the law they had little to do with each other. Dana was an advocate; Parker was a business adviser. Dana was in court nearly all the time; Parker rarely. Dana delighted in practice before juries; Parker delighted juries, but disliked to practise before them. Dana was a great trier of cases; Parker settled cases without trying them. Almost never did they act together, and professionally they rarely consulted together; yet as a partner Parker was invaluable to Dana, for, with his incomparable faculty of dealing with men, he managed all the details of the office, keeping its not very complicated machinery in smooth and easy motion. Dana was thus left free to give his whole soul to his cases, for the word "business" in connection with the law had in Dana's ears a vulgar and most unprofessional sound. The mere use of it always brought from him a correction and a rebuke.

It was during these years, — the comparatively brief period between 1856 and 1860, — that Dana's practice was largest and most absorbing. His forensic reputation then stood at its height. A harder life than he lived during those years, or one better calculated to develop any lurking weak centre in the physical or nervous system it would have been difficult to devise. His home was at Cambridge, three miles from his office; and as the custom then was he had to be at his office at nine o'clock every morning, for at nine the courts came in and the trial of cases began. During the terms of court Dana tried cases almost incessantly. As a rule, they were not cases of importance, and not infrequently the whole amount involved seemed hardly enough to pay costs and counsel fees; a verdict of \$3,000, for instance, in an action of tort was looked upon as very considerable. But to Dana the amount involved never seemed material, for he had the faculty of losing himself in his cause, and he would apparently work as hard to secure a verdict where a few hundred dollars were at issue as he could have worked had the matter been really worth contending over. His most striking peculiarity also was his unwearied attention to details. He prepared his cases himself. In fact, in those days while he never acted as junior counsel, he rarely, if ever, had a junior counsel to act with him, for the reason that he was not satisfied with the way in which junior counsel usually did their work. Consequently he had to examine every witness himself both before he went into court and when on the stand, and he had to open the case as well as close it; and so he did the work of an attorney as well as that of a barrister. This involved an enormous amount of labor, and he did not spare himself. Accordingly for long periods he knew neither rest nor recreation; for on Sunday his rest was not recreation. He was then dogged by that sense of duty which, especially with persons of strong religious convictions, is apt to make of the Sabbath one day more carefully divided off into its little round of allotted duties from which faculties overstrained

during the week can obtain neither rest nor recreation. So when Dana's law books and papers were laid aside on Saturday evening, it was only that he might on Sunday devote himself to the religious education of his children, to church-going, to the study of the Scriptures, whether in Greek, Latin or German, to the reading of standard authors, such as Shakespeare, Milton and Burke, or to some other form of mental culture, — from which he undoubtedly derived a certain intellectual enjoyment as well as a keen sense of obligation fulfilled; but no place was left in that existence for the last novel or the modern review or work of science, and well do I remember my intense surprise, not unmixed with diminished estimation, when one day in 1866, as we were crossing the Atlantic on a Cunard steamer and I was turning over the pages of "Henry Esmond," and extolling its wonderful English, Dana informed me with the utmost nonchalance that he had never read the book, nor, indeed, if I recollect aright, any of the writings of Thackeray.

Dana's life, in short, through all these years was one of drudgery; cheerful drudgery it is true, for he was always interested in his work, and he wore himself out uncomplainingly and even willingly, — almost as a matter of course. None the less he did wear himself out; and the saddest feature of the process was that he did so, not battling over great principles in supreme tribunals, but fighting petty causes in inferior courts.

The routine of his life during those years was as simple as it was killing. He breakfasted at home in Cambridge at eight o'clock, and then, with his green bag in his hand, took the omnibus at Harvard Square for Boston; until the street railway in 1856 drove the omnibus out of existence, after which time he took the street-car. Getting to his office at nine o'clock he began his day's labor there, either going at once into court or working over cases which he was soon to try. He would at times, for weeks together, be in court every day, all his faculties on the stretch. When the cases

in which he was concerned were on trial he would himself examine the witnesses, taking down his own notes of the evidence, as was then the practice of counsel, arguing constant points of law and evidence, and finally closing on his side to the jury. In the middle of the day, at one o'clock, a recess for dinner would be taken, and the court-room would then empty itself into the numerous restaurants, all more or less uninviting, which surrounded the court-house. Here a hurried midday meal would be eaten, or, more properly speaking, would be swallowed, — late dinners had not then come into vogue, — from which Dana, his mind all the time intent on his case, would hasten to his office to examine some witness who was to go on the stand as soon as the Court came in, or to consult some law book, or make a little preparation for the coming argument. Then came the afternoon in court, to be followed by a few hours at the office during which he met clients, saw witnesses or made arrangements for the morrow. Between five and six o'clock, green bag in hand, he would issue from his office and start for the Cambridge omnibus or street-car, reaching home in time to take tea, as the evening meal was called, with his family; but even then the dust and toil and thought of the day were not over. The "tea" of that period was not a generous repast marking the end of work, when office clothes and office thoughts were thrown aside, nor was it followed by a visit to the theatre or an hour passed at some social gathering or reception, or even an evening in the library with books and talk; on the contrary, "tea" was what its name implies, — a nondescript evening refectation of tea and toast and hot bread, the single merit of which was that it did not inebriate, as certainly it was in no wise calculated to cheer. On more than one occasion Dana at this meal developed an extraordinary appetite, devouring everything within his reach; and then, in answer to questions put him by his wife, it would presently appear that, intent upon his case and its preparation during recess, he had wholly forgotten to get any dinner at all, and, since breakfast,

nearly twelve hours before, had been living on air alone ; and that, too, the vile air of the crowded court-room. By and by, when the dreary evening meal — in no way dreary to him — was disposed of and the evening paper read and the talk with the children over, Dana would disappear into his library, the green bag would be emptied of its papers, and the lawyer would be immersed in the study of his case until bed-time.

Thus, in common with most of his profession who lived in suburban towns, Dana through all the more depressing season of the year can scarcely be said, except on Sundays, to have ever seen his home by daylight. He left it when the sun was just risen, to get back to it long after dark. The intermediate hours were passed at his office desk, or in the court-room, without rest or regular food. No man can through many years stand a life like this. He is, though he rarely knows it, living on his capital. Fortunately for Dana he had strong nerves and he habitually slept well ; though he took his work home with him, he did not take it to bed with him. He was a courageous man, and anxiety did not prey upon him ; nevertheless, if there was anywhere a weak link in the chain, a constant, heavy strain like this was sure to find it out. The cruel part of it was also, though no one seemed to realize it at the time, that here was a man of the rarest mental equipment using himself up mercilessly for no adequate result. Out of his profession he scarcely made a living ; and certainly, though his habits and his household were simple, and economy was always kept in view, he succeeded in laying up but little. His methods of working were for himself the most costly possible, for the reason already referred to, that he seemed to have no faculty of making others do his work for him ; though the amount of personal labor and study he would put into a case was none the less most wearing to those in his office. He was fond of working his mind clear by talking his cases over ; but he did all the talking himself. Carlyle has remarked that “ to sit as a passive bucket and be pumped

into, whether you consent or not, can, in the long run, be exhilarating to no creature ;” and during the period I was a student in Dana’s office I was utilized in this fashion to an almost unlimited extent. I find for instance a record in my own handwriting to the effect that on one occasion in September, 1857, “ Dana took me on Friday and pumped into me for two stricken hours, talking law which he himself didn’t understand, and which, I’m sure, I did n’t.” Some allowance in this case must be made for the not unnatural impatience of a young man of twenty-two whose enthusiasm for the study of the law was, as subsequent events proved, largely factitious ; but the entry illustrates Dana’s methods. He was not what is known as a “ case lawyer.” He had a clear head, a retentive memory and a fair knowledge of the textbooks and reports ; but his strength did not lie in that direction. It did lie in the activity and the alertness of his mind, and especially in his imaginative faculties and power of copious illustration. The same faculty of seeing and describing which caused him to make his mark in “ Two Years before the Mast ” at the age of twenty-two, enabled him to produce the effects on bench and jury which he indisputably did produce at forty. It was not his grasp of legal principles, though in this regard he was not wanting ; it was not his command of authorities, for that he did not have ; it was his combined courage and tenacity, and his faculty of seeing things clearly himself, and then making others see them as he saw them.

Terseness was thus inconsistent with his mental methods. He required scope. Naturally, in obedience to that law which compels all men to be with what they most enjoy contented least, Dana was a great admirer of terseness in others. Bacon was a favorite of his among authors, and in one of the letters written by him from Washington to his wife at a later period he mentions a curious exchange of compliments between himself and Benjamin R. Curtis, brought about by one of the characteristic legal arguments of the latter. Mr. Curtis was the consummate master of forensic

style among American lawyers of recent times. His clearness of thought and precision of statement were the delight not only of bench and bar, but even of the educated laity who would be drawn into the court-room for the mere pleasure of listening to him as he unfolded an argument. Then the most intricate problems of law through his treatment of them became lucid. Sidney Bartlett alone of the great leaders of the Massachusetts bar during the same period could be compared with him, but to the layman Mr. Bartlett's power was not apparent. It lay in his incisiveness of reasoning. He addressed himself instinctively to the trained, professional mind, going directly to the essence of the case at bar, with small regard to preliminary statement or to the careful enunciation of general principles. Curtis on the contrary, as he moved forward to the end his logic had in view, seemed to forget or overlook no proposition, however small, necessary to the completeness of his reasoning, and yet to no proposition did he apparently give an unnecessary word. His rhetoric both in form and manner was perfection of its kind, for as he stood up and addressed the court, — clear, calm, distinct and unimpassioned, — he seemed to the listener the ideal of a forensic, dialectical orator.

While Dana could not do this himself, in Curtis he admired it greatly. It was not given to him to state a case or to reason it out as it was stated or reasoned out by Curtis. Neither could he content himself with the one thrust at the vital point which, when Bartlett's method was pursued by Bartlett, was apt to be decisive. He, on the contrary, labored and elaborated his argument first in his office and next before the court. He would turn it over and discuss it from every possible point of view, bringing to bear upon it all forms of statement and methods of illustration which the wealth of his great imaginative powers could devise. He consequently often seemed to be long and labored, wearying judge and jury, but all the same he was apt to carry them with him in the end. This Curtis fully appreciated, for it was what he himself could not do; he

lacked the imaginative and illustrative faculty, and accordingly admired it the more in others. So after an argument before the Supreme Court at Washington in March, 1872, in which each had listened to the other, Dana wrote: "Judge Curtis made a beautifully condensed argument of not over twenty-five minutes. I told him I would give a great deal if I had the courage and ability to make such an argument. He said he could not make any other, and that he often wished, sincerely, that he could make such an argument as I made yesterday. I replied that I was glad to know that there was ever a tribunal before which my one and one half hours could be more effective than his twenty-five minutes."

But in those days Dana's diffuse method was unobjectionable, for the time of the courts, at least in Massachusetts, seemed to be of no great value. The length to which cases were then spun out in trial and the detail with which they were argued seem now almost incredible. A striking illustration of this was afforded in the Dalton divorce case, tried by Dana before a jury in the May term of the Supreme Court of Massachusetts in 1857. It was at the time a *cause célèbre* as well as a *cause scandaleuse*; the court-room was crowded every day and all day long, and the case occupied nearly the whole term, it taking some ten or twelve days to put in the evidence. On Dana's part it was a veritable *tour-de-force*. Opposed to him was Rufus Choate, with whom was Henry F. Durant, and in those days Choate and Durant together were commonly looked upon as the strongest combination the Suffolk bar could supply. Dana was alone; merely taking me, an inexperienced student from his office, into court with him to make notes of the evidence. Pliny Merrick was the judge holding the term.

It has since been and will always continue a mystery to me how any man could endure the incessant tension of brain and nerve to which Dana was subjected through that, as it seemed to me, fairly interminable trial. The crowded court-room was hot, ill-ventilated and exhausting to such a degree that the judge, a man somewhat advanced in years

and not vigorous in body, broke down completely, necessitating an adjournment of several days in the midst of the trial. In the early stages of the case also Judge Merrick took a strong bias against Dana, ruling out his evidence in a way which seemed almost reckless. Yet day after day Dana was not only instant and untiring, but he was always calm, cool and equable; his nerves never gave way; he never became petulant or irritable or excited. The physical strain alone was tremendous, for he was on his feet half the time examining witnesses, reading depositions, making interlocutory arguments on points of evidence; and then, when the court adjourned, would come the preparation for the morrow. But great as was the physical strain, it was less than the intellectual effort. In this there was no intermission. Choate and Durant relieved each other and, either was wholly competent. Dana did single-handed what they did together; his mental activity and alertness were not only wonderful, but sustained, — it was a constant fencing of wits and knowledge, in which no point escaped him, and no advantage offered him was lost.

At last the evidence was all in and the arguments to the jury began. A memorandum of mine records the fact that Choate talked for ten hours, taking two days of the court's time. It was at very "high pressure." but, as Choate rarely failed to do, he held his audience from beginning to end without tiring them. Dana then followed and spoke for twelve hours, occupying parts of three days; and finally Judge Merrick took three hours to charge the jury, making a total, as I wrote at the time, of "some twenty-five hours of eloquence" found necessary to the proper understanding by the jury of this single case.

Choate's argument was thoroughly characteristic of him, — brilliant, amusing, interesting and exaggerated; but Dana's was to me very disappointing. I had heard him before in a not dissimilar case go through it like a cannon-ball in little more than an hour, — electrifying court-room and jury by the energy of thought and expression with which he

presented the argument for his client. But now his delivery was labored and formal ; his attitude was constrained, and though he would bring out some point with remarkable power, he would afterwards dwell upon it interminably, pounding, as it appeared to me, all the strength of his first statement out of it. My belief then was that he could have said what he had to say far more effectively in four hours than in the twelve which he occupied. Such an abuse by counsel of the time and patience of the court seemed nothing less than an outrage, causing for all other litigants what amounted to a denial of justice.

But Dana presented his case to the jury on this occasion in strict accordance with his theory of correct method. A great believer in trial by jury, he always insisted that to secure the proper understanding of it by twelve men no case could be presented too clearly or too elaborately. The barrister might, he would insist, so present it as to satisfy six or eight or even eleven of the jurors, and yet fail with the others, or with the twelfth, simply because he had not made use of some illustration, or remembered to dispose of some side issue to which an undue importance might have been given. To do this required time.

Certainly the result in the Dalton case seemed to justify his method of presentation, and was at the time regarded by the bar and public as a great triumph for Dana, in view of the fact that he had pitted himself single-handed not only against Choate and Duraut, but also, as the result showed, against the judge on the bench ; for Merrick had closed for the defence in a way which caused both the counsel and the members of the bar who chanced to be present to listen to his charge in open-mouthed astonishment. Indeed, towards the end of the three hours which he occupied, his honor seemed to throw off all disguise and openly harangued the jury in behalf of the client of Mr. Choate. Nevertheless when, after many hours of deliberation, the jury came into court and announced their inability to agree, it appeared that Dana had secured the voices of ten of the twelve,

while one of the two dissentients intimated his willingness to yield and go with the majority if by so doing a verdict could be reached. With all their labor and eloquence, in a case not free from doubt, Choate, Durant and Judge Merrick combined were saved from complete defeat by Dana alone, only through the perverse obstinacy of one man out of twelve.

This was the best instance of what may not unfairly be called desperate jury fighting in which I ever saw Dana engaged, and I imagine the most desperate in which he ever was engaged. In it he showed throughout that he possessed in very high degree all the qualities — courage, alertness control of temper and command of resources — which make the successful jury lawyer. But more and most of all, though I did not then realize it, he displayed in a high degree that great quality of physical and mental nerve which afterwards in other fields and amid different scenes I grew to prize so much in others, and which has always been a noticeable characteristic of great commanders. Never flustered even when taken unawares, Dana invariably rose to an equality with the occasion. As new difficulties presented themselves and the danger increased he seemed to grow cooler and more formidable; what excited others only toned him up to the proper key, and thus it was in the moment of greatest peril that he appeared in most complete control of all his faculties.

And this recalls what Parker once told me of Dana's bearing while the Burns case was in progress, two years before I entered the office. Parker then alluded to the thing with characteristic disgust. Himself an anti-slavery man, and, so far as that issue was concerned, in political sympathy with his partner, Parker did not flinch during the hour of trial, but none the less the whole experience was to him a repulsive one; the excitement, the notoriety, the display of force and brutality, the breaking in upon the regular order of business, all annoyed and offended him. He spoke of it as "a horrid time;" and then, in answer to a question

of mine, his countenance suddenly changed from an expression of disgust to one of amusement and admiration, as he told me that through it all Dana was the only perfectly cool man to be found ; that he would go into court and return to his office, and all his little ways and mannerisms seemed only the more pronounced. There was nothing about him indicative of unusual stress.

It was in fact this nerve force in reserve which enabled Dana to lead so long as he did the life I have described. To a certain extent this was to him what an easy-going, placid temperament is to many, both men and women. He did not get over-excited, and lie awake worrying and tossing in his bed as those hours which precede the dawn wore themselves wearily away. On the contrary, in his times of severest labor and excessive strain he went forth and came in, got up and lay down, with that unconscious composure which comes from self-confidence and courage, — a composure which few possess and no one can cultivate, — the composure of a really strong man.

Yet withal, in spite of the brilliant exhibition which it afforded of intellectual force and legal skill, that Dalton divorce trial was, so far as Dana took part in it, a somewhat sad exhibition ; sadder to look back upon than it was to witness at the time. The work was killing ; and here was a man of the finest mental qualities, — a man with faculties of observation and a power of description rarely equalled, — a man who had in him the possibility of a statesman of high rank or a publicist who would have made a permanent mark on jurisprudence, — here was a man qualified by nature to do something which the world would not willingly permit to die, letting himself out as an intellectual athlete and using up health and life in wordy wrangles over the domestic infelicities of a foolish boy who had married a wanton school-girl. Like so many other men of rare powers in various ways, Dana was doomed to waste his life in the work of earning a living.

This, too, he himself keenly felt at times, though he had

a high and almost inordinate estimate of the value and dignity of his profession as compared with other means of obtaining a livelihood. I remember in my student days his once talking to me on this subject, and describing the repugnance he felt for his work when he had to return to it after some vacation passed in close contact with nature, whether amid the mountains or on the water. He then told me that he always at first had the utmost difficulty in taking up again the old subjects of contention, and he could only reconcile himself to his work by reflecting that in doing it he was a regular and necessary part of a great machine through which the ponderous system of law was administered and its results arrived at. He thus became a factor in a process essential to civilized life; presently he became again absorbed in his cases, and the longing for something different and better passed away.

Of Dana at the bar during this most active period of his professional life, it does not seem necessary to say more. He was immersed in a practice active and extensive, and one which kept him to a somewhat marked degree before the public and in the newspapers; for during those years he appeared in a series of cases of a sensational character. Nevertheless, the poverty, so to speak, of his docket was to every one in his office except himself a matter of surprise and uneasiness. Though long enough, few of the cases entered upon it involved large amounts of money; but it has already been remarked that he would interest himself in a small cause with the same thoroughness and true professional spirit with which he fought the most momentous issue. In fact, it may be questioned whether there was then or has since been any one at the Suffolk bar who fought cases more persistently and tenaciously than Dana. It really seemed at times as if the only way to get rid of a law-suit in which he was concerned was to have it decided in favor of his client. One illustration will suffice. The case of *Seccomb v. Provincial Insurance Co.* was entered on the docket of the Superior Court of Suffolk County for the January term

of 1857, when I was in Dana's office. I heard it tried as a student both before the jury and the full bench, Choate and Dana being again pitted against each other, and I can still recall with vividness the passages at arms between them, keen but always friendly and never leaving a sting. Then came the years during which I looked about for the beginning of a legal practice of my own; and all the while the case of *Seccomb v. Provincial Insurance Co.* was periodically making its appearance, first in one court and then in another. At last the war of the rebellion broke out, sweeping me out of my office into the army, and for five years I was away from Boston and the courts. When I returned, and casually inquired one day as to *Seccomb v. Provincial Insurance Co.* I learned that it had just been finally disposed of.

The case was a curious one in itself, for it turned upon the question, which did not seem at first open to much doubt, whether Smyrna was in Europe or in Asia. Dana in this instance was retained by the Insurance Company, and took a brief for Asia. Choate, with whom was Henry F. Durant, was for the plaintiff and Europe. It appeared that the bark *Nautilus* had been insured for a voyage the termini of which were fixed in the policy, with liberty to deviate by "going to port or ports in Europe by paying an equitable premium therefor." The *Nautilus*, while waiting for a cargo in some Mediterranean port of Europe, had made a separate venture to Smyrna. There was some evidence, though not of a conclusive nature, that the officers of the Insurance Company knew when making this policy that the bark was likely to return home by way of Smyrna, but the real contention on the part of the plaintiff was that, by a well understood commercial usage which governed in such cases, Smyrna was understood to be a port of Europe. The sympathy of both court and jury were of course to be counted upon in favor of the plaintiff, who, fully believing his ship insured, had lost it in the course of a *bonâ fide* voyage.

Four several times was this case tried before a jury.

Not in vain did Dana refer to the atlas and the chart, citing also sacred history and the seven golden candlesticks, while Choate dealt in eloquent persuasion, making his appeal to usage, fortified by facts of geology all tending to show what ought to have been in place of what was. Three times the jury failed to agree; but on the fourth trial a verdict was rendered in favor of Choate, the plaintiff and Europe. The case was then taken to the Supreme Court on exceptions, which were in due time sustained; and again the issue went to a jury. Again a verdict was rendered, and once more the case was appealed to the Supreme Court on exceptions; and then at last it was disposed of in a long opinion in favor of the contention of Mr. Dana. *Seccomb v. Provincial Insurance Co.* has since, as I am assured, been a leading case on the principle involved in it; and, through a long line of decisions in the reports, not only is Smyrna fixed as an Asiatic port, but commercial usages, unreasonable and contradictory to the language plainly used in a policy of marine insurance, cannot be proved to exist by oral evidence thereof.

The name of every lawyer in active practice may be said to be writ in water. Unless it is his good fortune to be engaged in some great historic or political cause, — some case of Ship Money, or defence of the Bishops, some Stamp Act argument, or trial of fugitive slaves, or impeachment of Pro-consul or President, — unless he has the fortune to be engaged in state trials such as these, he is inevitably a few years after his death remembered only in the fleeting traditions of a local bar, or by the frequency with which his name is found in some series of antiquated reports. Dana's is no exception to this common fate, and as a lawyer he will in a few years more be called to mind even in Boston only as the champion of Thomas Sims and Anthony Burns. In fact, the real activity of his professional life, the period during which his heart was in his office-work, ended in 1859, when he was yet only in his forty-fifth year. He then broke down under the unnatural strain of the life he had been leading, and which has in this chapter been de-

scribed. He had used himself up; and he had used himself up with no adequate return either in the way of enjoyment for himself or provision for those dependent upon him.

Much attached to his family, Dana during these years saw, and could see, but little of them. A short walk in the garden behind his house with his children before breakfast when the season permitted, and a little talk with them and his wife at tea, or in the early evening, was the limit of week-day intercourse. To a man of his kindly, bright and affectionate nature such a sacrifice of domestic life is sad to contemplate; in his case it can only be said that not until later did he seem to realize it. He was always cheerful, happy and disposed to enjoyment. His only time of real relaxation was in the summer when he and his family went to Manchester-by-the-Sea, on the north shore of Massachusetts Bay. The acquisition of this property, as well as summer-home, had been for the whole Dana family a veritable stroke of good luck. The attention of the elder Dana had first been called to it as early as 1844, during summer sojournings on the north shore, long before that region had become a fashionable resort. It was then held as mere grazing land, stony cow-pastures, in a money point of view of little value. A few miles west of the entrance to Gloucester harbor and the reef of Norman's Woe, at the foot of the bold and wooded shore, lay a pebbled beach, upon which, as the wind varied from the fierce southeast to a gentle west, the waves of the Bay broke with violence or softly lapped. The rocky upland commanded a wide ocean-view to the southward, while to the west the eye followed a vanishing line of coast, until in the distance the blue Milton hills loomed up across the water over the islands which marked the entrance to the harbor of Boston. Beach and upland were part of a Cape Ann farm of fifty or more acres, the whole of which Dana in 1844 succeeded in buying for his father, paying for it what a few years later would have been regarded as a merely nominal price. It is to this place that Dana refers in a passage which has been quoted from a

letter to his wife, when he speaks of visiting the Ticknor family "at the shore" in September, 1851. But, except for two years when it was rented by the Ticknors, the Danas, old and young, every summer made one family at Manchester, and at Manchester Dana passed some of the happiest and most enjoyable hours of his life. There he threw aside his books and cases and office cares, and lived for the hour with wife and children, walking, bathing, driving, and sitting on the gallery of the house drinking in the air from that ocean always so dear to him and upon which he never wearied feasting his eyes. "It is inexpressibly beautiful," he once wrote. "There is no such place. The grand and ever-changing sea, the islands and light-houses and indented coast, the beach at high tide, the beach at low tide, the rocks, the woods and their smells, the unbroken quiet and the full moon on the waters!" It was Manchester, too, which he represented in the constitutional convention of 1853, so that he felt something akin to the relation of counsel and client toward the place. Indeed, there was nothing in his life more genial or more pleasant to recall than those hours, far too few in number, most profitably idled away at Manchester-by-the-Sea.

But it was not Dana's domestic life only which was sacrificed to his profession; it made deep inroads also upon his intellectual being. Taking into consideration the essentially literary character of Dana's mind, it is astonishing within what narrow limits his reading was confined. Brought up by his father and Professor Channing in what is known as the classic school, he never, so far as I could discover, had made any considerable excursion beyond. In this respect he was not in step with his time. He had some, though by no means a large or intimate acquaintance, with the Greek and Roman classics, — that ordinary, college-graduate acquaintance in fact, more in vogue thirty years ago than now, which enables its possessor to puzzle out an author's meaning with the help of a lexicon, and derive much the same appreciative enjoyment from so doing that a Frenchman

with a slight knowledge of written English may feel as he slowly delves into the beauties of Shakespeare or Milton with the aid of some English-French Liddell and Scott. But of the classics of his own tongue, especially those of the generation immediately preceding his own, Dana was always an appreciative reader. Shakespeare he knew well, and, though not an especial admirer of Milton, he never failed to read the "Hymn on the Nativity" aloud to his children on every recurring Christmas eve. Even in those days Spenser and the "Faerie Queene" had few readers, but Dana was one of those few; while a certain copy of Bacon's "Novum Organum," bound in red, was at one period so constantly in his hands that some of his younger children lived under the impression that he never read for amusement anything else. Among the religious writers he gave particular attention to "the judicious" Hooker, while Keble's "Christian Year" was a *vade mecum*, and it has been seen that when in England, Keble and Keble's house and Keble's church were objects of reverential interest to him.

Dana prepared a lecture on Burke, which he delivered on many occasions; so it need not be said that of Burke and his writings he made a special study. With Walter Scott, Byron, Coleridge and Wordsworth, the great poets of the period in which he grew up, he had the familiarity which comes from keen enjoyment and intellectual sympathy. They were the food on which he was nurtured; but of the writers and developers of thought and science in his own day and generation he knew little, nor was he in active sympathy with them. The pages of his journal record the ecstasies of emotion he felt over the "Heir of Redclyffe;" but I have already described my silent surprise when he complacently admitted to me that he had never read "Henry Esmond," and knew nothing of the writings of Thackeray. The same might I fancy be said of the writings of Carlyle; and though he dined often at his club in company with Hawthorne and Emerson, I never in the course of my long and frequent conversations with him

remember allusions which would have led me to suppose that those writers appealed strongly to him; certainly none of the works of either of them found a place on his bookshelves, and he was reading the "Marble Faun" for the first time, as a guide-book to Rome, when he was taken with the illness which ended his life. Though when he went to England in 1856 he says he met every one he cared to see, the list no more included Tennyson or Thackeray or Browning or Carlyle, than Darwin or Huxley or Lyell or Spencer. These last indeed from religious considerations Dana looked at greatly askance throughout the later years of his life. What he wrote of Washington Allston might equally well be written of himself. "To him, the Supreme Being was no vague, mystical source of light and truth, or an impersonation of goodness and truth themselves; nor, on the other hand, a cold rationalistic notion of an unapproachable executor of natural and moral laws. His spirit rested in the faith of a sympathetic God. His belief was in a Being as infinitely minute and sympathetic in his providences, as unlimited in his power and knowledge. Nor need it be said, that he was a firm believer in the central truths of Christianity, the Incarnation and Redemption; that he turned from unaided speculation to the inspired record and the visible Church; that he sought aid in the sacraments ordained for the strengthening of infirm humanity, and looked for the resurrection of the dead, and the life of the world to come."

It is needless to say that the man who approaches these questions in this spirit firmly shuts the door, so far as he is himself concerned, in the face of modern thought and scientific research; and Dana did so shut the door. What was, therefore, the leading power in the advancing thought of his own time was a power hardly recognized by him; and when recognized it was recognized only to be opposed. This was illustrated in a way both striking and characteristic in the struggle which took place during the year 1868 in the Board of Overseers of Harvard College over the

nomination of Charles W. Eliot as President of the University. Both Mr. Dana and Mr. Parker were members of the board at that time. My own connection with it did not begin until many years later, but one who took an active part in that debate, which was protracted through weeks, tells me that Dana "frequently spoke, and always from the point of view of a man who, above all things, desired to see the college continued in the line of the classical and literary studies, 'the humanities,' as we may call them, rather than that it should drive off in the direction of what Mr. Dana evidently regarded as the profitless quest for the dry facts of chemistry and geology. I recollect how interesting it was to hear Dr. Walker [the President of the college from 1853 to 1860, and then a member of the Board of Overseers], whose sympathies were really with Mr. Dana, but who, as a man of affairs, saw how desirable it was to have a strong business-like man like Eliot at the head of things, — it was curious. I say, to hear Dr. Walker speak in defence of the nomination of Eliot, while Dana was urging that we should select some clergyman, or some historian or distinguished man of letters, at any rate, as the head of the college. . . . I think we all felt that it was a momentous epoch in the life of the college, — that we were going to make a serious change from the Kirklands, the Everetts and the Sparkses, to men who were much younger, more vigorous, more practical, with less reverence for antiquity, little knowledge of the classics, and a general belief that more was to be expected out of the future than could be gained by looking at the past. I think that the minds of the Overseers were divided very nearly in accordance with this general principle, and, among them all, Dana, F. E. Parker and Dr. Walker were the three best speakers. Parker, it is needless to say, was on the same side with Dana; they both of them felt that a classical education was the important distinction between a man who had been to college and a man who had not been to college, and that anything that diminished the importance of this distinction

was essentially revolutionary and tended to anarchy; that the advent to power of men who preferred science to the classics, and the investigation of natural history to preaching from the themes of the Old and New Testaments, was going to produce an entirely new type of educated men, as the result of the instruction afforded by the college; that it would be breaking in upon all their cherished associations, recollections and sympathies, and that it was to be deferred, so far as possible, to the future, if it could not be postponed altogether." In like manner Mr. Dana at a later day stood side by side with Mr. Parker in the same board in relentless opposition to the lecturer through whom the discoveries of Darwin and Spencer were brought home to the knowledge and minds of the students. This dispensation Dana was not slow in declaring his purpose to resist to the end.

Such was Dana during the years following his return from Europe in the early autumn of 1856, when I saw him most and knew him best. Those about him did not realize it, and he least of all; but through all that time he was, as I have shown, working under a pressure and with a disregard of the laws of health which could lead to but one result. That result, as will presently be seen, came most suddenly, and apparently, to him, unexpectedly, though doubtless he had for some time been receiving those intimations of an overworked system — head troubles, broken sleep, impaired digestion and lowered spirits — so familiar to all physicians and to many professional men. The journal which he had intermittently kept for twenty years then came to a close, and the few remaining pages of it afford the material for but one short chapter more.

CHAPTER III.

GEORGE BANCROFT. — NEW YORK CITY RIOTS. —
TRENTON FALLS. — THE SATURDAY CLUB. — “TO
CUBA AND BACK.”

1857. *March 5. Thursday.* Mrs. Metcalf is buried to-day from the Roman Catholic Church in Franklin Street. There was a very large attendance of judges, lawyers and friends of her family. The deep, uniform bass of the Requiem is still in my ears. Centuries speak through it. How wise that church has been, and how firm, to maintain its liturgy, its chants, its universal language, against all the assaults of time and place. . . .

Heard a good anecdote of [George] Bancroft and [B. F.] Hallett. Healey says he heard it from O. A. Brownson. In 1844, when the Democrats carried the national election, and Bancroft was appointed to a seat in the cabinet, he came to Boston and invited the chief men of the Democratic party to come to his house. The offices were to be given out, and it is known that the member of the cabinet from each section of the country has the chief influence in recommending the nominations. Hallett had worked very hard in the campaign, and had high expectations. As soon as Hallett entered the room, says Brownson, Bancroft danced up to him and called out, “Ah, Mr. Hallett, I am charmed to see you. I know what a debt the party owes you for your ser-

vices in this campaign ; and I will not rest until they are appreciated and rewarded." "Now," said Brownson to Healey, "Mr. Bancroft said nothing of the kind to any other gentleman present, from which I inferred that Hallett was the only man there who was not to have an office ; and it turned out so."

July 4. Saturday. . . . Having before my eyes the possibility of spending Sunday in Albany or Utica, I took the afternoon train for New York, which I reached at about five o'clock. Dined at Astor House, and walked out to see the city under the influences of the 4th of July.

There had been a parade of the military at noon, and they were but recently dismissed. I went down in the neighborhood of the Bowery, and took cross streets for Broadway, not knowing precisely where I was, when I noticed a great crowd about the corner of Bayard and Baxter streets, and along Bayard Street. There were women and children in the outskirts of the crowd, as well as men, and all the windows were full of people looking on. The crowd, as I saw, seemed still, and the people at the windows had the appearance of persons who were there for a long look, mostly seated, and the whole scene led me to suppose that a procession had passed or was to pass by. There were the same loud reports, ever and anon, like the discharge of fire-arms, which are heard all over the city on this day, from the large-sized Chinese crackers so freely used.

The people of this neighborhood were chiefly Irish, and of a very low character. Near the corner, I spoke to a quiet-looking man, who stood at his door, and asked him what was going on.

"Oh, a bloody fight, sir. It has been going on two hours."

“Who are fighting—whom is it between?”

“Between our chaps and the Bowery boys.”

He professed not to know what it was about, and to think it a great shame. I asked him what they were fighting with. He said with everything, bricks, clubs, guns, all they could get.

“Are they using fire-arms?” said I.

“Don’t you hear ’em, sir?” said he.

I then discovered, for the first time, that this popping which I supposed was of heavy crackers was the report of pistols and guns, and that I was in the outskirts of a deadly fight. I pressed on to the corner, as near as it was safe to go, and perhaps nearer, and stood upon an upset handcart at the corner of Baxter and Bayard streets. The “Bowery boys” had possession of the upper part of Bayard Street, towards the Bowery, and the gang of foreign rowdies and blacklegs, known as the “Dead Rabbits,” who live in this region had the lower part of the street. Between them were several piles of bricks lying in the streets, where houses were building, which had furnished the materials for the early part of the fight. But when I got there the fight was chiefly with fire-arms, though there were occasional rushes and retreats, assaults and repulses of large bodies, armed with bricks and clubs, and here and there strong men made long bowls with pieces of brick.

On the sidewalk, not far from me, was a pool of blood, as if a hog had been killed, and a lad of sixteen came out of a house with a bandage over his face and a long-nine in his mouth, swaggering off with the air of a hero. He had been slightly wounded.

I was particularly struck with the listless and in-

different look of many of the spectators. Those in the windows seemed seated there for the day, and a large proportion of women and children were in dangerous parts of the streets.

My companions on the handcart were a decent Irishman, an intelligent American (who, I afterwards had reason to believe, was a reporter for the "Tribune"), and a girl of about twelve years of age. I got but a very imperfect view. There seemed to be a double rank of men across Bayard Street looking on, from which some occasionally went forward or came back from and to the closer part of the fight. One man in shirt sleeves and bare headed was conspicuous, and brought back a discharged pistol, which he loaded. My Irish companion was particularly zealous for one man who was active and conspicuous in running out and firing, — when he suddenly exclaimed: "By God! that man 's down!" and down he was, surely enough, shot through the head. At this moment there was a fight in the outskirts of the crowd on one side, and a cry that something or somebody was coming, I could not tell what, and a general flight round the corners and into the doors. Not willing to be either hurt or caught in such a crowd, I walked off at a rapid gait, turned up some streets to the left, and came down again on the Bowery side. I could get no good place to see, out of the way of a chance shot, but was just in season to see a drift of men mostly in shirt sleeves, bare headed, with sticks, brickbats and fire-arms, passing on a fast run up Bayard Street, to attack the Bowery boys. They drove the stragglers before them and caused a flight of the outsiders; but they were repulsed.

As it was getting towards twilight and the neighborhood was dangerous, and there was no sign of either a policeman or a soldier, or of preparation for any, I left the scene.

July 5. Sunday morning. After breakfast went to church at the Church of the Holy Communion. I was so full of the scene of yesterday, and the extras from the newspapers had given the details of so many killed and wounded, and there were such fears of a second outbreak, that I went down to the bad district after church, and spent nearly two hours in walking through those streets and about the "Five Points." It is a dreadful neighborhood. The men seem so brutalized as to be beyond hope of recovery; and there are women no better, and a whole generation of children of both sexes growing up in the midst of this degradation. The effect on my spirits was most depressing. Is there hope for man? Can the race be redeemed? Has it been redeemed? It seemed to me easier and more encouraging to destroy the whole race and to begin anew with a grafting of humanity upon dogs and horses, or even bears and tigers.

One man with whom I talked, one of the more respectable Irishmen, who looked as if he had no intention of laying a club over my head or putting a knife through me, said that the new police could not go into the sixth ward; that the men of the sixth ward had vowed to kill them all if they came there. I reminded him that the police were backed by the whole state.

"But," said he, "the sixth ward, sir, is the strongest power on earth." He repeated this, and fully believed it. Nor is it strange he should. It has given

the great Democratic majority every year, and is the only hope the Democratic party has of carrying the state; and [its inhabitants] have enjoyed almost an impunity in their violences and wickednesses.

Spent several hours with [W. M.] Evarts in his new house. . . . Dined with him, and after dinner walked down in town to see the state of things. Saw the Seventh Regiment draw up in Broadway. They looked formidable and inspired confidence. Two other regiments were also under arms.

Went with Evarts to the Headquarters of the Commissioners of the Metropolitan Police. They were astir with rumors of mobs and resistance, and with reports from the troops. Met Richard Grant White, and went with him to the arsenal. The Seventh was drawn up in front of the arsenal, and within were the surgeons with hospital preparations. The men stood in a line, which was kept formed, but were allowed to sit down, to converse and sing, and I heard several good chorus songs from some of the lines.

July 6. Monday. Took Hudson River cars to Albany and Utica, and reached Trenton Falls at about six P. M. The hotel is like a gentleman's house in a quiet country estate, and has a delightful air of quiet refinement. Michael Moore, Esq. (for he is an Esquire), the owner, is a man of property and education, who meets his upper class guests as an equal.

After tea went down, under Moore's guidance, to the falls, and walked up the length of the cascades and rapids as far as the great fall, and returned through the woods.

It is a very striking place. It is subterranean. A

rather narrow river flows at the bottom of a deep cleft, several miles long, winding, turning, down broken wild stairs of rocks, and over banks of rocks; the sides of this deep cleft being all the way picturesquely formed rocks, of deep sombre colors, well-decked with verdure, and trees bending over with their boughs sometimes lower than their roots. At the bottom of this deep cleft you too are walking by the side of the rushing wild stream, on narrow ledges often, and again over flat surfaces of rock, "at close quarters with a cataract," as Willis says of it.

One charm, to me, of this stream is the color of the water. It is amber color. The Indian name, Kanata, signified amber color. When seen over black soil or black rocks it is tea color. Over gray or white rocks, or when falling in large masses, it is the purest amber. In small thin sheets it is nearly white, and one of these thin sheets of falls looks like an agitated veil of lace,—that old family lace which is slightly tinged with yellow.

Moore showed me some lines written to these falls by Mrs. Fanny Kemble, who was there the week before, which she gave him, but desired not to have copied. I read them several times, and remember two or three of the verses. To appreciate them, one must remember the sources of this stream in the mountains and lakes of the Adirondacks, and have seen the white foam at the foot of the amber fall, and the black lines and spots of the deeper color above. The Indian name of the falls, Knyahora, signified leaping waters:—

Come thou from where the everlasting hills
Open their rocky gates to let thee pass,
Child of a thousand rapid running rills
And placid lakes, where skies their beauty glass ')

With thy black eyes, white feet, and amber hair,
 Of earth and sky thou fair and fearful daughter—
 Down the long halls and royal rocky stair,
 Exulting come, thou lovely leaping water.

After some lines to the Indians, she closes:—

Far toward the setting sun they wandering go,
 Poor remnant left of exile and of slaughter,
 But still their memory mingles with thy flow,
 And murmurs in thy name, thou Leaping Water.

The correct text of these verses of Mrs. Frances Anne Kemble's is to be found under the title "Written at Trenton Falls," in her volume of poems published in 1859. They are here reproduced exactly as Dana wrote them down from memory in his diary, and differ in many respects from the original, as finally printed two years later. Though the younger R. H. Dana made no pretence of being, like his father, a poet, he had a keen ear for good English and was a lover of poetry. When, therefore, he undertook to quote from memory, and varied from the original, there is a certain degree of interest in deciding whether he improved upon it, or the reverse. The verses quoted in the text appeared as follows in the published volume:—

Come down! from where the everlasting hills
 Open their rocky gates to let thee pass,
 Child of a thousand rapid running rills,
 And still lakes, where the skies their beauty glass.

With thy dark eyes, white feet, and amber hair,
 Of heaven and earth thou fair and fearful daughter,
 Through thy wide halls, and down thy echoing stair,
 Rejoicing come — thou lovely "Leaping Water!"

Far towards the setting sun, wandering they go,
 Poor remnant! left, from exile and from slaughter,
 But still their memory, mingling with thy flow,
 Lives in thy name — thou lovely "Leaping Water."

July 7. Tuesday. Spent the day at the falls, and went as far up as it seemed to me footsteps could

carry me. After this read, in the quiet of my room, with the—to a working lawyer—delicious repose of inland scenery and absolute idleness, Hazlitt's "Table-Talk."

August 6. I believe I have nowhere mentioned the Club. It has become an important and much valued thing to us. The members are Emerson, Longfellow, Agassiz, Lowell, Pierce, Motley, Whipple, Judge Hoar, Felton, Holmes, S. G. Ward, J. S. Dwight, H. Woodman and myself. We have no written rules, and keep no records. Our only object is to dine together once a month. Our day is the last Saturday in every month, and we dine at Parker's. A unanimous vote is required to elect a member. The expense of the dinner is assessed upon those present, and charged at the office, so we have no money affairs to attend to. Guests are permitted, but each man pays for the guest he invites. The Club had an accidental origin, in a habit of Emerson, Dwight, Whipple and one or two more dining at Woodman's room at Parker's occasionally; for Woodman is a bachelor, a literary quidnunc and gossip, or, as Gould says, "a genius broker." Ward is a friend of Emerson's, and came. From this the club grew, Ward, Dwight, Woodman, Whipple and Emerson being the originals. Agassiz, Pierce and I were early invited to meet with them. This made it more of a regular thing, and we established our verbal rule as to membership, guests and expenses. Lowell came in soon after, and then Motley and Longfellow. The first formal vote we had for members was at this stage, for up to this time unanimous consent was obtained by conversation. The vote brought in Holmes and Felton, which made the number fourteen, as many as we think it best to have.

This was the Boston Saturday Club "the fame of which," as Mrs. Agassiz wrote in the memoir of her husband, "has spread beyond the city of its origin." The most noteworthy of the many Boston dinner clubs, it was indeed the only American organization of the kind, — for as it grew older it became an organization, — which, because of the eminence and reputation of those who had been members of it, could be brought into comparison with its prototype, made famous through the pages of Boswell, of which Johnson, Burke, Reynolds and Goldsmith were original members, and which, still flourishing in London, is now known simply as The Club. The little circle of friends who through so many years gathered at Parker's in Boston has been popularly known as Emerson's and Agassiz's Club, as the Literary and the Atlantic Club, and as the Saturday Club, but the last alone is its correct name; for, as early as 1859, Dana dedicated his "Cuba and Back" to "the gentlemen of the Saturday Club," and nearly thirty years later, having received a bequest of money from one of their number, they formed themselves into a corporation under the name of "The Saturday Club," which still exists.

As Dana says, the Club originated with Horatio Woodman, a member of the Suffolk bar, who, being unmarried, lived at the Parker House. It was Dr. B. A. Gould, the mathematician and astronomer, who defined Woodman as "a genius broker," and the definition was a happy one, for he had a craving for the acquaintance and society of men of reputation, and, indeed, lacked only the industry to have been a sort of Boswell. In connection with the Saturday Club, also, an abundant field of interesting gossip and reminiscence opened before him, had he known enough to labor in it; but, as Dr. Holmes said in his memoir of Emerson, "the Club had no Boswell and its golden hours passed unrecorded." An amusing story-teller, with a natural eye for character and a well-developed sense of humor, Woodman had at his command an almost inexhaustible fund of anecdote.

dotes relating to the men who in those days made the Parker House and its somewhat famous restaurant a sort of headquarters. Though during the rebellion he was sufficiently active and prominent to have been offered the position of Assistant Secretary of War, yet in his own mind the great achievement of his life was the founding of the Saturday Club, and his connection with that club which could only have come about through his being its founder, was the thing on which he most prided himself. At a later period he got into serious money difficulties, in consequence of which he lost such standing as he had, both socially and at the bar; and finally he put an end to his own life. He resigned his dearly prized membership in the Saturday Club some time before, and it has been reported that this, and the loss of the good opinion of its members, were the predominant thoughts in his mind while nerving himself to the act of self-destruction.

Between the years 1850 and 1855 Emerson, then a man of about fifty, was living at Concord, and it was his custom to come to Boston either every Saturday or on the last Saturday of each month to see his friends and transact such business as he might have on hand. The firm of Ticknor & Fields, which originated the "Atlantic Monthly Magazine," then kept the famous "Old Corner Bookstore" at the northerly junction of School and Washington streets, and they were Emerson's publishers; so that corner naturally became the centre to which he gravitated. Here Woodman used to meet him, and by degrees, as Dana says, Emerson got into the custom of going with Woodman to dine at Parker's, or the old Albion restaurant. Gradually it occurred to Woodman that Emerson might be glad on these occasions to meet others, as others would certainly be glad to meet Emerson. Samuel G. Ward was then living in Boston, the American agent of the London banking firm of Baring Bros. & Co., and Mr. Ward had been on terms of personal intimacy with Emerson for many years. Indeed, according to

Mr. Ward, though Woodman was the means of bringing the first members together, Emerson himself was the impelling cause of his so doing; for the idea of some such club had long been a favorite one with Emerson, and before it finally took shape he had referred to it again and again in letters to Ward, so the latter naturally became one of the little circle. The bond of connection between Emerson and John S. Dwight was more apparent, for not only had the latter been one of the contributors to "The Dial," but, when the philosopher of transcendentalism wearied of the pulpit, Mr. Dwight had at Emerson's own request succeeded him as preacher before the little Unitarian Society in East Lexington. Subsequently Mr. Dwight in his turn found theology unfruitful, and, after five years of Brook Farm experience, was now absorbed in editing that "Journal of Music" which so long as it existed bore his name.

As Dana records, from this germ the Club grew; Ward, Dwight and E. P. Whipple, a lecturer and essayist whose works were also published by Ticknor & Fields, meeting Emerson at Parker's for the purpose of dining together at half past two o'clock on the last Saturday of every month, Woodman arranging the details of the dinner. Emerson was thus the Johnson of the Saturday Club, as Woodman was to a degree, and should have been wholly, its Boswell. Unhappily he kept no note-book. Through what affiliation Dana became one of the company does not appear. There was certainly no particular sympathy, intellectual or otherwise, between himself and his ancient instructor at Cambridge, now become, to quote Dana's own words, "a writer and lecturer upon what is called the transcendental philosophy." — a philosophy Dana unquestionably never took the trouble even to try to understand. It is not likely, therefore, that Dana's connection with the Club as an original member was due to any especial desire on Emerson's part to meet him, or on his part to meet Emerson; nor did he have more than a passing acquaintance with

either Mr. Ward or Mr. Dwight, upon both of whom he probably looked down from the eminence of professional life as gentlemen engaged in "business" and "journalism." Judge Hoar and Mr. Dana were, with the exception of Woodman, the only lawyers in the company, and Judge Hoar was a fellow townsman and neighbor of Emerson's; the probabilities are, therefore, that it was through Hoar and Woodman that Dana, with whose literary and social qualities they were well acquainted, became one of the little Emerson coterie. Dana describes how by the election of Oliver Wendell Holmes and Cornelius C. Felton, then Professor of Greek at Harvard, the Club was brought up to fourteen in number, "as many," he adds, "as we think it best to have." This is Dana's way of expressing it; but in later years, and after the Club had been largely increased, the tradition among the older members was that the limitation to fourteen had been somewhat characteristically, as well as arbitrarily, imposed by Dana himself. In other words, Dana, in this as in other cases, held himself high and believed in exclusiveness; accordingly, though never allowing his position to be misunderstood, he had been liberal with his blackballs. The result was that, in order to elect any one, it became necessary for the other members to watch for some occasion when Dana was away, and then rush in their candidate before he got back.

Whether this was so or not, the roll of the Saturday Club membership has, first and last, contained a singularly large proportion of well-known names, and some that are illustrious. The original fourteen have already been mentioned, and, among the dead, Emerson, Agassiz, Pierce, Longfellow, Motley and Dana are in themselves a galaxy. The historian Prescott and the poet Whittier were elected in 1858, followed by Hawthorne and Thomas Gold Appleton in 1859. The name of Dr. Samuel G. Howe was added to the list in 1861, and that of Charles Sumner a year later.

Governor Andrew was chosen in 1866, dying in the autumn of the next year, and with him entered Dr. Jeffries Wyman. Charles Francis Adams was made a member in 1870, not long after his return from the mission to England, Professor Asa Gray in 1874, Edmund Quincy in 1875, and James Freeman Clarke in 1877. The list of the distinguished dead who once gathered "when Saturday her monthly banquet spread" closes with the name of Henry Hobson Richardson, the great architect.

Speaking of this Club in its early days, Mr. Ward says: "Agassiz always sat at the head of the table by native right of his huge good-fellowship and intense enjoyment of the scene, his plasticity of mind and sympathy. . . . I well remember amongst other things how the Club would settle itself to listen when Dana had a story to tell. Not a word was missed, and those who were absent were told at the next club what they had lost. Emerson smoked his cigar and was supremely happy, and laughed under protest when the point of the story was reached." Referring to this same early and golden period, Dr. Holmes wrote: "At that time you would have seen Longfellow invariably at one end — the east end — of the long table, and Agassiz at the other. Emerson was commonly near the Longfellow end, on his left. There was no regularity, however, in the place of the members. I myself commonly sat on the right hand side of Longfellow, so as to have my back to the windows; I think Dana was more apt to be on the other side. The members present might vary from a dozen to twenty or more. One of the most noted of our early guests was Commodore Charles Wilkes of the San Jacinto, who had just taken Mason and Slidell from the Trent and was made a hero of for his blunder. Charles Dickens dined with us during his second visit. He compounded a 'jug' *anglicé*, or pitcher as we call it, of the gin punch for which his father was famous. No witch at her incantation could be more rapt in her task than Dickens was in his as he stooped over the

drink he was mixing. Conversation was rarely general. There were two principal groups at the ends of the table. The most jovial man at table was Agassiz, his laugh was that of a big giant. There was no speechifying, no fuss of any kind with constitution and by-laws and other such incumbrances. I do not remember more than two infractions of the general rule of quiet and decorum, — these were when Longfellow read a short poem on one of Agassiz's birthdays, and the other when I read a poem in honor of Motley, who was just leaving for Europe."

Longfellow thus referred in his diary to the first of these two occasions mentioned by Holmes: "1857. May 28th. A rainy day. The fiftieth or golden birthday of Agassiz. We gave him a dinner at Parker's, fourteen of us; at which I presided. I proposed the health of Agassiz, and read a poem. Holmes and Lowell read humorous poems, which were very clever. We sat down at half-past three and stayed till nine." Of these poems only that read by Longfellow has been published. It is contained in his works under the title of "The Fiftieth Birthday of Agassiz," and begins with the lines: —

"It was fifty years ago
In the pleasant month of May."

But by far the most striking and famous poetical effusion with which the Saturday Club was ever associated is Lowell's threnody on the death of Agassiz. In that he refers at length to "the garrulous memories"

"When Saturday her monthly banquet spread
To scholars, poets, wits,
All choice, some famous, living things, not names,
And so without a twinge at others' fames;
Such company as wisest moods befits,
Yet with no pedant blindness to the worth
Of undeliberate mirth."

This poem describes "the warm lighted hall," and in its references to "the living and the dead" contains allusions

to Agassiz, Emerson, Longfellow, Hawthorne, Felton and the English poet, Arthur Clough.

Among the members of this "striking company," and a constant attendant at the Club dinners, was E. Rockwood Hoar, of whom Lowell wrote, describing Agassiz at the Club table : —

" Listening with eyes averse I see him sit
Pricked with the cider of the Judge's wit
(Ripe-hearted homebrew, fresh and fresh again)."

Judge Hoar's home was at Concord, and in the Club's early days there was no train on the Fitchburg railroad which left Boston at a sufficiently late hour to get him back to Concord the same evening, and yet give him all the time he liked to have with the company that lingered round the table at Parker's. Emerson and Hawthorne also lived at Concord and were subject to the same inconvenience. Accordingly Judge Hoar was in the custom of solving the difficulty by having his carry-all come over to meet the last suburban train out at the station where it ended its trip, and the three, Emerson, Hawthorne and Hoar would thence drive to their homes in Concord together, a somewhat remarkable company to be found in one small vehicle.

Dana did not express himself too strongly when he wrote in his diary that the Saturday Club had " become an important and much valued thing " to him. In fact, it supplied a need in his life, for it not only gratified to a certain extent his social cravings, which found little enough to gratify them elsewhere in the routine of his working life, but it also brought him in regular contact with men who he otherwise would have rarely met, — men like Agassiz, Emerson, Lowell and Holmes, who gave to the Club dinners that intellectual and literary flavor which Dana appreciated so much, and in professional life seldom enjoyed.

Long afterwards, in referring to Dana in this connection, Judge Hoar wrote, " He was a pretty constant attendant at the dinners, and evidently had a profound respect for them as an institution. He always struck me ' as made for

state occasions and great ceremonials.' He did not usually take a leading part in the conversation, unless some matter of politics or history, English or American, was under consideration ; and in the rapid flow of wit and wisdom which Lowell and Holmes and Whipple and Agassiz and Felton would keep up he was not often a contributor. He told a story very well, when he chose ; but was a little formal about it, though he had some powers of mimicry ; and in personal discussions he had a keen perception of salient points of character, with a hearty detestation of meanness or baseness — and about as much for vulgarity, as rated by his standard. He was not given to repartee, and seemed to prefer more methodical and elaborate discourse.

“There was a certain Episcopal flavor about his manners and speech, and way of regarding other people, that matched oddly with his thorough democracy concerning human rights. He had an imagination kindred to Burke's in splendor, but regarded facts, where they presumed to stand in the way of theories, with suspicion, if not with disapproval.”

In September, 1857, Dana, this time accompanied by Mrs. Dana and one of his daughters, revisited Halifax and the British Provinces. He had not been there since his trip in 1842, during the early days of the Cunard line ; but he was a busier man now than he had been then, and, unfortunately, neither had the time nor felt the inclination to record in detail what he saw. The only reference to the trip is contained in the following familiar letter to his next-door neighbor in Cambridge, Professor Longfellow : —

HALIFAX, N. S., *September 18, 1857.*

MY DEAR LONGFELLOW, — Mrs. Dana, Henrietta and I have just returned from a delightful trip of four days to what is now known as the “Evangeline country,” and to Annapolis, and we all desire to thank you for having thrown such a charm around that beautiful region.

We went to Grand Pré and wandered about, and saw the spots which the people have identified as the sites of the chapel and the blacksmith's forge, and cut two little sprigs of willow from the tree next the blacksmith's shop, from which the conductor, whom we saw, has sent you a cane.

You can hardly know how truly and deeply you are honored and beloved here. Mr. Haliburton said, "If he should come here, there would be a gathering of clans, I can tell you, which would surprise him."

I was repeatedly asked to urge upon you to visit the region, with profuse, yet sincere, offerings of all kinds of attentions. I am sure you would be greatly pleased by the scenes and the interest you would find among the people.

You have given to Nova Scotia her only classic ground. You have done for it what Scott has done for Loch Katrine, and Burns for the Down of Alloway. It will not be long before Cook will be offering to take parties to it.

It is easily accessible by rail, now. Mrs. Dana wishes me to urge your coming here this autumn. The weather is said to be delightful here in September and October, and you can come by steamer or by rail, or divide between them. Your visit can be made private if more agreeable to you, and if your stay is short, you will get rid of all formal and ceremonial inflictions.

Believe me, faithfully yours,

RICHARD H. DANA, JR.

1857. *December 6.* . . . Judge Hoar says that when they were about forming a Universalist Society

in Concord, the following advertisement appeared at various places in the town for a week or so: "All persons in favor of the universal salvation of all mankind are requested to meet at the Middlesex Hotel, Saturday evening next, at 7.30 P. M., to choose officers."

Could this have happened out of New England?

1859. *February 11. Friday.* Having a chance to get off for a short vacation between the courts, and being a little fatigued, the notion is suddenly suggested to me that I can go to Cuba. This will make as great a change of scene as it is possible to get in so short a time, and is too tempting to be relinquished.

Parker writes to Mr. Williams of New York, a friend of his, cashier of a bank, and gets me my berth in the *Cahawba*, which sails to-morrow.

Leave Boston at three P. M., by cars, for New York. No one out of my own family knowing of my intention, for it is not well, on professional grounds, to be known to go off on a tour.

The next day, February 12th, Dana sailed for Cuba on the *Cahawba*, and a minute record of his experiences and impressions in Cuba, and during the short ocean voyages there and back, until he landed again in New York on the 7th of the following month, was afterwards published by him in the little volume dedicated to "The Gentlemen of the Saturday Club," and entitled "To Cuba and Back. A Vacation Ramble."

Though by no means equal as a literary performance to "Two Years before the Mast," in this country at least "Cuba and Back" has probably had almost as large a sale, for it has passed through no less than twelve editions and is still called for in Havana as a guide-book. Indeed, only

when read during a visit to Cuba can its literary merit be appreciated ; for, considering the short time he was on the island, and the scant opportunities he enjoyed there, it is remarkable how much Dana saw and how quickly he grasped the essential points in the situation as it then was.

Yet in reading "Cuba and Back," the thought which now first suggests itself is the singular way in which, with men as with communities, it is the unexpected which is apt to occur. Dana made his two voyages on the *Cahawba* in February and March, 1859, and that steamship was then commanded by a captain named Bulloch, a young man from Georgia, who had a few years before resigned a commission in the United States navy to accept the command of a mail steamer plying between New York and New Orleans. During the two voyages he made with him, Dana saw a good deal of Captain Bulloch and conceived a high opinion of him both as an officer and a man ; and in the first chapter of his book he describes Bulloch as loving the navy still and leaving it with regret, but he adds, "what is there before him, or those like him, in our navy ? . . . At fifty he may be entitled to his first command . . . though he may cut off his right hand or pluck out his eye for his country's honor, the navy can give him no promotion, not even a barren title of brevet, nor a badge of recognition of merit, though it be but a star, or a half yard of blue ribbon ;" and curiously enough, reasonable as it all seemed at the time, this was written, in 1859, of James D. Bulloch who, only three years later, as naval representative in Europe of the Southern Confederacy, was more actively instrumental than any other man in the work of equipping the *Alabama* and the *Laird* ironclads to destroy the navy of the United States, and so complete the overthrow of its government.¹

It has been much the same with the social and political problems which then agitated Cuba, and which are referred

¹ See *The Secret Service of the Confederate States in Europe ; or how the Confederate Cruisers were equipped.* By James D. Bulloch. 2 vols. New York. 1884.

to or discussed by Mr. Dana. Many of them seemed portentous at the time, but the mention of them now sounds like a hollow echo from a remote and well-nigh forgotten past. Repeated allusion is made, for instance, to a measure looking to the acquisition of Cuba by the United States, introduced into the Senate by Mr. Slidell of Louisiana, and known as the "Thirty Millions Bill," — this measure Dana found was "the absorbing topic" among all classes in Cuba, and the withdrawal of the "Thirty Millions Bill" by its author was the first news he heard when the Cahawba picked up a pilot on the return voyage.

Though forgotten now, Slidell's "Thirty Millions Bill" of 1859 was the natural outcome — the political corollary, as it were — of the Ostend conference of five years before, when Pierre Soulé of Louisiana, John Y. Mason of Virginia and James Buchanan of Pennsylvania, ministers of the United States respectively at the Courts of Madrid, Paris and London, met, under instructions from W. L. Marcy, Secretary of State, to consider what was then called the Cuban question, and, after maturely reflecting upon it, issued the singular historical document subsequently known as the "Ostend Manifesto"; — a document in which the doctrine was laid down that Cuba belonged "naturally to that great family of States of which the Union is the providential nursery;" and then from this premise the conclusion was adduced that while "the United States have never acquired a foot of territory except by purchase, or, as in the case of Texas, upon the free and voluntary application of the people of that independent State," and that "our past history forbids that we should acquire the island of Cuba without the consent of Spain unless justified by the great law of self-preservation . . . after we shall have offered Spain a price for Cuba far beyond its present value, and this shall have been refused, it will then be time to consider the question, — Does Cuba, in the possession of Spain, seriously endanger our internal peace and the existence of our

cherished Union? Should that question be answered in the affirmative, then, by every law, human and divine, we shall be justified in wresting it from Spain if we possess the power."

Such was the combination of slave-holding cant with a new gospel of national burglary which in 1859 afforded one of the most constant topics of discussion in Havana, and among all who felt any interest in the future of Cuba. It was a living question then. Two years later the unexpected occurred, and it ceased to be a living question.

It has been the same with slavery and the importation of Coolies, things the possible outcome of which in Cuba then excited the utmost interest, and which Dana heard earnestly discussed at the dinner-table of the Bishop of Havana. Slavery is abolished, and the importation of Coolies into Cuba has stopped; the slave-holding rebellion in the United States has brought about the first, and the action of the Chinese government the last. Both results were due to causes which no political sagacity could then have foreseen.

In his book Dana discusses all these topics, but he discusses them with discretion, never venturing into the domain of prophecy; accordingly, though thirty years have elapsed since "Cuba and Back" was published, it still retains its value as well as its interest, notwithstanding the fact that, during the intervening time few things remain unchanged in Cuba except the climate, a portion of the products of the soil, and the leading characteristics of its people.

But, considering that Dana went away for rest, being plainly an overworked man, and was gone from his office only twenty-four days in all, it is questionable whether he got much benefit from his journey, for the letters he wrote and the diary he kept during his absence sufficed to fill a small volume, which he prepared for the press immediately after his return. He doubtless in this way reimbursed himself for the expenses of the trip, and this, as he was then placed, was to be considered; but for a lawyer in

active practice the preparation of a volume of impressions of foreign travel cannot but make a heavy drain on physical and intellectual resources already taxed to the uttermost. Less than three months later, as appears from the next and last extract from the diary, Dana had, when too late, both reason and leisure to meditate on this fact.

July 20. I have overworked for the last ten years, undertaking to do everything and study everything. One day, a few weeks since, in the midst of arguing an exciting cause, — the “Smyrna Case” (*Seccomb v. Prov. Ins. Co.*), I went into Parker’s restaurant, and, very hungry, I ate, hardly knowing what I did, a quantity of cold corned beef, and returned into court, and finished my argument, and went back to Parker’s to dine. While at dinner I was taken with a fit, from indigestion, and fell, senseless. I was taken to a bed, and a physician gave me an emetic. As soon as I was relieved I felt perfectly well. Most fortunately, there was no other result than a temporary fit, — nothing in the nature of paralysis.

But my physician is satisfied, and so am I, that my system is out of order, both nervous and bilious, and that I need long rest and recreation. Of all plans proposed, none suits me so well as a voyage round the world. This has been the dream of my youth and maturer years, and I am actually happy in being able to realize it.

Though Dana, with characteristic courage, persuaded himself to take this cheerful view of the situation, it was in fact very serious. A lawyer in active practice, with a large family of young children, wholly dependent on his professional income, he was suddenly called upon to seek rest and recovery in travel. Fortunately he had his partner, Mr. Parker, to call upon, and Parker responded to the call.

Through his active assistance all difficulties were at last surmounted and details arranged, and a few hours after writing the foregoing entry in his diary, which proved to be the last entry in it he ever made, Dana started for New York, to return, after an interval of twenty-three years, to California, on his way westward round the world.

CHAPTER IV.

ROUND THE WORLD.

WHEN, on the 20th of July, 1859, Mr. Dana left his house in Cambridge on his way round the world, ten years were yet to elapse before the last connecting rail would be laid in the overland route from Omaha to Sacramento. It was true that since 1835 the journey from the north Atlantic coast to the California coast had been shortened, for it could now be made by steam, nor was it any longer necessary to double Cape Horn; but the regular mail service from New York to San Francisco was still by way of Havana and Panama, and the trip occupied over twenty days. Saturday, the 23d of July, Dana left New York on the steamer *Star of the West*; on Wednesday, the 27th, he was once more in Havana, and shortly after midnight of the following Sunday reached Aspinwall, where at nine o'clock Monday morning, August 1st, the passengers from the *Star of the West* took the cars for Panama, and by two o'clock of the afternoon of the same day were on board the steamer *Golden Gate*. "So," Dana wrote home, "on my birthday I crossed a continent! In the morning I was sailing on the Atlantic, and in the evening I was sailing on the Pacific, and at noon I crossed the continent."

Aspinwall is the most dismal place I ever saw. I doubt if the Almighty intended it for a dwelling of man. It is a tropical swamp, a torrid stagnant marsh. In the morning exhalations are drawn up from it by the sun, looking like smoke from burning meadows. A waste of mangrove swamp, with large

stagnant pools of yellow water, is all you can see for miles, with a rich, morbid, tropical vegetation, dying and reviving, decaying and renewing, simultaneously. The inhabitants are chiefly negroes, who seem to do well enough in this climate, but the whites look wretchedly. They are coffee-colored, bloodless, sunk-eyed, with all blood drained out, and all stamina shaken out by intermittent fever. . . .

The first half of the way over the Isthmus was flat and low, swampy, miry, with the richest vegetation, rich and profuse to morbidness, gorgeous flowers, gorgeous butterflies, dense jungles, luscious fruits, palm-trees, mangoes, bananas, plantains, oranges, limes, pine-apples, — with little negro hamlets of thatched hovels, standing in the mire, and negro women with four flounces to their white gowns, without shoes or stockings, stepping about in the mud.

The last half of the way the country becomes hilly, dry and picturesque, with distant mountains, — beginnings of the Andes, I suppose, for we are in South America, Panama and Aspinwall being in New Granada, — and then comes the first view of the Pacific. Panama is an interesting old town, on high land, surrounded by high hills, with the open sea before it, and mountains behind it. It is the antipodes of Aspinwall. The houses are of stone and old, in Spanish style, and there are several churches. The Bay of Panama is noble. I have seldom seen a grander view than the sunset view from the deck of our steamer as we got under way from the Bay of Panama.

On the evening of Saturday, August 13th, the Golden Gate reached San Francisco, and Dana once more found himself in California. In the chapter entitled “Twenty-

four Years After," appended by him to the "Author's Edition" of "Two Years before the Mast," which he published in 1869 after the expiration of the Harper copyright, he gave his own account of what he saw, and what his feelings were, during his second and last visit to the Pacific coast. There is, accordingly, no occasion for further reference to this part of his journey, and the present chapter will be made up almost exclusively of extracts from his notes, more or less brief, relating to experiences elsewhere.

Remaining in California from the 13th of August to the 10th of September, Mr. Dana then started for the Sandwich Islands on a sailing vessel. He subsequently wrote a fairly detailed account of what next took place in a letter to the editor of the San Francisco "Times," which was printed in the issue of that paper of Saturday, October 22, 1859, but the following, his disconnected manuscript notes, give a more graphic picture of an exciting sea episode.

September 10. Saturday, 10 A. M. Set sail in the noble clipper ship Mastiff for Sandwich Islands. This ship is bound to Hongkong. Stops at Sandwich Islands to land mail and few passengers, and has one hundred and seventy-five Chinese steerage passengers on board. William O. Johnson, master. His wife on board. Cabin passengers — George Clifford of San Francisco, merchant (brother of Governor Clifford of Massachusetts); Charles C. Harris, Eng[lish], of Honolulu, a lawyer; young Mr. James H. C. Richmond of New Bedford, going to Honolulu to enter into business, and a Jew (?) named Shonbrun. Ship of about 1,200 tons, and said to be one of the best American ships afloat, and captain a high reputation.

Beats out of harbor exceeding well. Quick in stays. Last view of San Francisco hills, islands, ports, light-houses, Golden Gate, and its fogs and strong northeast winds.

First three days of passage, the coast fogs and cold hold on. Then clear, fair, Pacific Ocean weather, and light winds.

Enjoy highly life in a sailing vessel. So much better than a steamer. No noise, no smell of oil, no tremor, as still as country after city; and the interest in the sails, winds, duties of seamen, etc. Become intimate with Captain Johnson, — seaman by birth, well educated; a library on board which cost some \$1,200 or \$1,500, and all other things to match — plate, cutlery, furniture, provisions, etc. The ship his home and his idol and chief subject of conversation. He owns one quarter of her, and took her from the stocks; built in Donald McKay's best manner.

Chief mate is Bailey, of New Bedford; second mate, Johnson, of Salem; third mate, a Frenchman, and crew of about twenty men. All newest fashions of rigging.

Captain Johnson and wife very fond of animals; has on board a large English mastiff, of one hundred and twenty-five pounds' weight, "Watch," two English spaniels, two spaniel pups, a King Charles spaniel, two tame kangaroos, two walloughbers,¹ a Java cat, pigeons, hens, etc., a cow and calf, large number of pigs, etc. "Boy Tap," to take care of stock. "You Tap. You Tap." "Kangaroo had no hay." "That dog no water." Constant attention to these animals. The mastiff follows Johnson everywhere, a perfect guard.

Interest myself and recall old times by watching working of ship and work on rigging. Songs of sailors. Go below; Chinese burn lamps and smoke. Captain Johnson forbids it.

¹ *Wallabee* = a small variety of kangaroo.

September 15. Thursday. At about five P. M., quiet afternoon, good breeze, all easy and happy, work going on. Captain Johnson. "Here, Mr. Bailey, fire in the ship!" Startled all; smoke immediately pours up after ventilator and hatch. Call all hands aft. Rig hose to pump. Mates jump down the hatch aft, in the lazaretto, and smoke pours up in volumes, stifling. Officers spring up and report that between decks all on fire, and, having taken fire in lower hold, Captain Johnson immediately gives up all hopes of saving ship, and stops pump, and all hands go to work in clearing boats for lowering. "Is there powder on board?" "Yes." Captain Johnson has gone below to get it. Magazine brought up and thrown overboard, and Captain Johnson armed with revolver. Chinese are alarmed, and rush for the boats; beat them back by belaying pins and threats and presenting pistol. Steward shows presence of mind, and stands by captain. Gig is lowered first. Mrs. Johnson comes up, prepared to go in boat.

A British ship has been in sight the last two days, sailing with us. She is several miles astern. Set our ensign union down, and half mast, and back after yards. Captain Johnson asks me to see his wife safely in boat. She goes over side on rope. Chief mate and I help her in. Chinese rush for the boat; beaten back; take in Chinese rower, cabin passengers, and few Chinamen, who rush in. Excellent boat. Second mate takes command; four oars, and I help at one. Pull over two miles, and put all safely on board the English ship. Ship Achilles, bound to Sydney. Calmness of Mrs. Johnson.

Soon, two more boats come from the Mastiff, each

full of Chinamen; one in charge of third mate, other has no officer, so I volunteer to take charge of the boat with a steering oar. Pull for the Mastiff. Smoke pouring out, but flames not burst out yet. Put her alongside, and take in Chinese hanging from the sails and ropes and chains. Great noise and attempts to get in, but as they cannot swim are afraid to jump in. Keep boat well off, and get her full. Men lie in bottom, and crouch down. Order them aft. Gentle, and ready to obey. Put them all safely on board the Achilles. My boat leaks, and keep one hand bailing. Put off again for the Mastiff. Five boats now employed — four of Mastiff, and one of the Achilles, under charge of her second mate. These boats all flying to and fro. Remarkable that with the alarm, and so many (one hundred and seventy-five) ignorant, useless men, not knowing our language, unaccustomed to boats, struggling for life, we should have launched every boat safely, none swamped or stove, and loaded, transported and put on board all — every one — without an accident.

When got alongside last time found all the Chinese had been taken off. Boats now take off baggage of passengers and crew. We had taken none before, Johnson afraid to leave the deck and boats lest Chinese take them.

Steward saves all my luggage, with trifling exceptions, as it was all in my room on deck, and that was to windward. Nothing could be got from below and from lee side. Sailors' house being on deck, save most of their clothes. Captain Johnson saves the specie, \$76,000 in gold, in boxes, and chief mate takes it to the Achilles; also two chronometers. The captain saves nothing of his own. Steward saves

some trunks for him and for Mrs. Johnson. (Steward's name is Edward Trofater.) Most of luggage in upper house is saved.

Now attempt to save the animals. The cat and one pup are smothered. Cow and one hog too large. The two wallabees are smothered. Save the two kangaroos, all the large dogs, and number of poultry, pigs and pigeons. Captain Johnson asks me to come on board and have a calm conference to see if anything more can be done. I do so. Very much fatigued by exertions in my boat, especially the steering oar, and head and lungs full of smoke. Captain Johnson says all between decks a mass of fire, and will soon burst out through deck. Cannot get out long boat. Been trying it while we were in boats, — too few men, and now of no use. All other boats out, and nothing more can be got from deck. Has been trying to get at the bread, but cannot cut through the deck. (Carpenter of no use, has seemed to lose his powers.) Nor could it have been done, as too near fire. Nothing more can be done. My boat is full of luggage and push off again; put all safely on board. Two boats remain by side of the Mastiff, and Captain Johnson, the chief mate, steward, are the last to leave her — not until ordered. Captain last to leave.

Flames burst out through deck at mainmast. Now nearly dark, and flames glow over the ocean. Mrs. Johnson anxious lest her husband stay too long. Two figures on the quarter deck. Now disappear, and the last two boats come off. Captain Johnson comes on board, and the poor, noble Mastiff is abandoned. Flames mount the rigging, catch the sails, and all a mass of fire. Main and mizzenmast fall.

Foremast stands long, then drops, and only a burning hull.

Captain Hart of the *Achilles*, a generous, frank British sailor, takes Captain Johnson by hand. Now the excitement is over, and his duty done, the magnitude of the loss comes over him, and he says over and over, "My ship *Mastiff*! My ship *Mastiff*! Is it possible she is gone!" like the mourning of David over Absalom.

All agree in a sense of the wonderful nature of our relief. Just 6.45 P. M. when Johnson leaves his ship. Not over two hours from time alarm first given until she is an uninhabitable mass of fire, yet all saved. If no ship in sight, could not have been saved. Boats not hold half the people. Was about one thousand pounds bread and six barrels water on deck. On deliberate reflection believe it very doubtful if could have saved one life. Chinese would have been restrained with great difficulty from the boats.

Place of fire was latitude 30.46 north, longitude 128.35 west.

Achilles gets under way again, and leaves the burning wreck of the poor *Mastiff*. For hours we see the bright light over the ocean.

All feel the kind providence of God that we are saved from fearful suffering and death, and by common consent we have religious services in the cabin. I read passages from Scripture, and portions of the service — thanksgiving and prayers from the Service at Sea.

(Conversation with Captain Johnson last night on board the *Mastiff*.)

Ascertained that one Chinaman is lost. He went

below to save his box of money, and was suffocated. All counted, and found only one missing.

Captain Hart makes generous provision for our comfort. He has his wife on board, and three passengers,—Newman and wife, and Ryan, all Irish. Hart and wife are English.

Chief mate is Jarvis, Englishman from Essex, and second mate is Harley, Scotchman from Lanark. Captain and both mates are good sailors, and solid, hardy men. Achilles a ship of five hundred tons, fully loaded with wheat, between decks full, bound from San Francisco to Sydney, Australia. Our crew go forward, and no place for the one hundred and seventy-four Chinese but the open deck. Only five Chinese women, and they huddle together under the steps aft. Rest get on spars, boats, gratings, etc., and what with blankets saved and old sails which Hart gives them, make themselves as comfortable as possible.

Very little rice on board. Give them boiled wheat from the Achilles's cargo, and bread, and allowances of water.

Hart agrees to bear off for Sandwich Islands.

The Achilles reached Honolulu on the 27th of September, twelve days after the burning of the Mastiff, and Dana landed there, not failing, as he put off for the shore in a lateen-sail Kanaka boat, to note with pleasure the glorious surf breaking over the coral reefs and on each side of the channel through which he sailed. The Mauna Loa, one of the active volcanoes of that region, was then in eruption, and a fortnight later Dana visited it. In 1870 he wrote out from his notes the following account of this excursion for the benefit of a fair held at Salem:—

[1859. *October 10.*] The islands are much excited

over an eruption of Mauna Loa, on Hawaii, and its striking phenomenon of an outflow to the sea.

As a visit to Hawaii is part of my plan, I hasten it a little, lest I be too late for the sight. The 5th of October I take passage in a little native schooner for Kawaihae; and after rolling about for several days in the long heavy swell of the Pacific, in dead calm, so near Lahaina that an hour's row would have set us ashore there, and enduring as well as I could for five days the smells of the crowded natives and their food, we came to anchor off a beach in the northwestern corner of Hawaii.

Here is a temple, or huge altar, a large pile of coral stones, with no roof, terraced down to the plain, built by Kamehameha the First in his days of heathenism. I roamed about the spot, enjoying the unspeakable beauty of the tropical seashores and temperature until evening, when I engaged a native boat to take me to the outflow. Never can I forget the charm of this night. If you have never been on an island of the Pacific tropics, read the first two stanzas of Tennyson's "Lotos-Eaters," and fancy may fill the place of experience.

"In the afternoon they came unto a land,
In which it seemed always afternoon.
All round the coast the languid air did swoon,
Breathing like one that hath a weary dream.
Full-faced above the valley stood the moon;
And like a downward smoke, the slender stream
Along the cliff to fall and pause and fall did seem."

The "slumbrous foam" broke in sheets, lazily, over the outposts of coral reefs, the moonlight waved upon the long swell, the gentle trade-wind breathed over us an exquisite breath, neither hot nor cold, and our little boat, with its keeled outrigger, moved over the

fairy scene in silence, the bow scarce making a ripple against the silvered surface of the sea.

When the wind raises itself a little, as it does ever and anon, a native lies out at his length on the outrigger, and so keeps the boat on an even keel. A drowsiness comes over us all, which is broken as soon as we round the point, and the glaring fires of the volcano burst upon our view.

But how different is this from all views of volcanoes of which I have ever read! The crater from which this outflow comes is forty miles from the sea, and some ten or twelve thousand feet above it. There is a lurid light above the spot seen in the heavens, and reflected over land and sea; but there is no eruption at the crater into the air. There is only a steady flow of deep, wide streams of lava. These move at a very slow rate, and find their way by dint of good engineering to the sea. They pour into a valley for days until they have filled it to the height of its outer hillside, and then hurry in fierce and rapid tumult down its sides until they bridge a river with burning, hissing streaks, or gully out an obstruction, or, after long debate, make up their minds to go round it, although it shall delay them for days. In this slow way the mass travels seaward, now in one vast stream of one, two or three miles wide, and now in detachments. All who have seen a course of lava know how soon its fiery red, left in repose, crusts over with a slate-colored scum, and how soon this crust, if unbroken, cools and hardens, so as to be passable on foot. These processes had been at work on this stream so long that no uniform course was visible to the eye. But long lines of miles in length were crusted and hardened over, the lava flowing under this surface;

and here and there, like ranges of potteries in Staffordshire seen at night, the red spots appeared, looking like little long lakes of crimson water.

The outflow into the sea had already worked wonders. It had filled up a harbor, worked itself out in the form of moles and breakwaters, made new harbors, and new reefs and headlands, all the while burning and hissing at its vast, titanic labors. The space occupied by the outflow was about three miles in width. Not that a sheet of lava three miles wide was always flowing into the sea, but that was the width given up to its operations. Sometimes, for minutes together, there was no flow along the entire line. Then, overcoming the opposing mass of rocks, earth and trees, it had borne along and heaped up before it the lava, mounted over it, and poured itself into the tranquil sea, hissing and steaming, with continuous explosions, as of firearms and small artillery, and sending up into the air steadily rising clouds of vapor. Then this effort subsides, this spot becomes quiet, and the assaulting force breaks over at the other end of the long line. Sometimes several points are stormed and carried at once by the blood-red invader of the sea, with rattling and roaring of musketry and artillery, and rising clouds of vapor. Old Ocean feels the unwonted heat far out into its depth. I went as near it as I could persuade the natives to take their boat. They were afraid — partly, no doubt, from the remains of their old superstitions. Peli, the goddess of wrath, had her seat on this mountain top, and the eruptions of her fury carried terror into the hearts of the people. Peli is still, under their Christian civilization, the name for a volcano, as our own word is derived from Vulcan. They pretended

that the heat of the water would injure the boat, and open her seams, and I was obliged to stay at, perhaps, a safer distance. Putting my hands over the gunwale, I found the water warm, and at times as hot as I could comfortably bear it.

For hours I lay rocking in the little boat, in silence, for the natives did not speak, giving myself up to the impressions of this wonderful scene, — wonderful in its display of the power and grandeur of physical forces in their conflicts, — wonderful in the combination of wrathful, vehement action on land, with the magnificent repose of the great ocean; the short space given up to the contest, the long, dimly traceable line of march of the lava, its occasional campfires burning along its course, from the red crater, so far in the inland; and all under the canopy of a tropical night, of moon and stars, and gentle winds, mountains, hills and valleys, where the strange forms of palms and cocoa trees are visible;

“And in the heavens that clear-obscure
So deeply dark, and darkly pure;”

until the approach of dawn made me release the weary natives from their unwelcome duty; and we glided away from the supernatural scene, around a high point, through reefs of tumbling foam, coming at daybreak into the quiet haven of ancient Kailua.

November 16th Dana left Honolulu on the bark *Architect*, bound back to San Francisco, where he arrived on the 11th of December, passing the heads of the Golden Gate at sunrise, and beating into the harbor against strong head winds. “A noble bay and striking points,” he wrote, “yet I have no wish to see it again.” During this stay in California, which lasted just one month, Mr. Dana made a visit to Vallejo, where General Vallejo lived, who had been in com-

mand at the Presidio in 1836, and remembered him as a boy in the *Alert's* boat, reminding him of a short conversation they then had together. From Vallejo Mr. Dana went to the Napa Valley, where he stayed at Yount's ranch, the old backwoodsman and Indian fighter, who gave his name to it, being then alive, and to Mr. Dana an extremely interesting study; for Yount assured him "with great simplicity that he never killed an Indian for the sport of it, for game, but only in fight, when necessary."

The 11th of January, 1860, Dana passed for the last time through the Golden Gate on the bark *Early Bird* bound for Hongkong. Fifteen days later he wrote: —

Strange how I am able to spend my time. No *ennui*, no spare time, no weariness! Yet my sanitary rules allow me not over two or three hours' reading in the day. Called at 6.30, . . . "turn in" soon after nine. I suppose I walk deck an average of five hours a day. Ship, sea and sky are the same every day, and no news from without, yet to me all is interest and variety, and no exhibition is like a cracking breeze and foaming sea.

January 27. Friday. Fine weather and good winds. Went to topmast cross-trees to look for the islands. Not in sight. Glad to find that I can sit on cross-trees and look down on deck without any dizziness of head, as well as when I was a sailor-boy. . . .

28. *Saturday.* Day of white chalk! "Land ho!" at daybreak. The island of Hawaii on our larboard bow. To masthead to look at it with glass. See the point and hill near which lies dear Hilo, and, over all, the summit of Mauna Kea, above the lower clouds, with patches of snow lying about it. . . .

I do not believe I shall see, in my long journey, a place that will interest and charm me so much as this

group of islands. It would delight me to land at Hilo and Honolulu, and spend a few hours, making flying calls among my friends, to see the native sights and hear the native tongue. Aloha! Aloha hui! Never, in all human possibility, shall I behold you again! The islands melt away in the golden sunset.

March 2. Friday. Six days of calm and light, very light breezes, — about half the time a dead calm, and the rest a two or three knot breeze. Hard to bear.

Yesterday a Chinaman dropped his wooden pillow on the head of a man below. What a row! Just such as Huc describes, all chattering and sticking out their skinny, yellow fingers, and looking as if blows or scratches would come next, but no blow struck. Debated and settled.

Caught a shark. Great relief to monotony of a long, dull day of calm. The two hundred and odd Chinese, men and women, all on deck. Amusing to see them throw themselves upon him, knives in hand, when he was left to their mercies, on deck, — and such a chattering, squealing, bawling, and yet, with a dozen knives drawn and all the pushing and crowding, no one hurt. They cut him up for cooking.

At length, on March 8th, the *Early Bird* reached Hongkong, and we “drop anchor safely, and our voyage of fifty-five days is ended.” At Hongkong Mr. Dana was the guest of Russell & Co., and, after looking about him, he exclaimed in his note-book: —

What a hive of industry is a Chinese town! No industry is so minute, constant and infinitesimally divided. China is an ant-hill. Shops with lacquered fronts are very pretty. What a reading or letter-

using people they are! Words printed on every door-post, and on masts of every boat or junk, and men reading in the streets and at the shops' counters their thin, yellow paper books, with paper covers, which they roll up in their hands.

Mr. Dana was in China during the war between that country and the French and English, which followed the repulse of Admiral Hope in his attack on the forts of the Peiho River on the 25th of June, 1859, the occasion which led to the American Commodore Tatnall's well-remembered utterance, "blood is thicker than water." An account of these now wholly forgotten troubles, and the causes in which they originated, will be found in McCarthy's "History of Our Own Times,"¹ and it is only necessary here to say that during the early months of 1860, Canton was under the French-English military occupation, and nine months later the famous summer palace of the emperors near Peking, having first been plundered by the French, was "levelled to the ground" by order of Lord Elgin, the English ambassador, as an exemplary punishment for the indignities perpetrated by the Chinese government on twenty-six British subjects, seized and made prisoners while under the protection of a flag of truce.

Remaining at Hongkong only two days, on the 10th of March Mr. Dana started by steamer for Canton, and he thus describes the scene he passed through on the river.

March 10. Saturday. Whampoa — the anchorage of large ships trading at Canton. Large numbers of American, English and French vessels there, and some men-of-war. The Hartford lies below Whampoa, to practise at target firing.

Boats, junks, of all kinds, become thicker and thicker. How swift they go, by wind and tide, their huge single mat sail, with bamboo horizontal sticks

¹ Vol. ii. pp. 46, 108-110, 175-183.

across it! They reef by lowering only. This is quick and simple.

Now, the boat-houses, anchored, in which thousands of the Cantonese live. The small boats, are chiefly managed by women. They row and steer. Girls of eight, ten and twelve years pull vigorously at the oars, and are very skilful in steering, and skill and quickness are required in the crowds here. Our steamer goes slowly among them, bobbing them up and down in the heavy swell she makes, the boats just saving themselves from her paddles. But how good natured the girls are! They pull away at the oars, and jump about, and laugh and show their white teeth, though they seem to be just on the point of upsetting children, household goods and all, into the river. Now we have passage-boats and cargo-boats, and mandarin-boats, and sea-going junks, and river-going junks, and anchored house-boats, and flower-boats, and moving boats of all kinds, by the thousands, as thick as carriages and foot passengers together in the Strand. Some of the boats are very prettily fitted up, and you see the sacred fire and the incense of their rites, the worship of ancestors. It is not prayer or invocation, but respectful religious acts of veneration. Now we are in Canton! There are ruins of the large stone buildings and of the walls in all directions, the effects of thirty-six hours of pitiless bombardment by the English and French, not a shot being returned, and not one in ten thousand of the poor Chinese knowing what it was for. . . .

How strange everything is! I am in the midst of China and Chinese, and from our windows and the balcony I look out upon this ancient river, literally alive with passing boats and junks, and cries as thick and fast as of birds in a forest.

Mr. Orne takes me out to visit the grounds preparing for the new factories. . . . As we return, it is getting dark, and the Chinese are lighting the lanterns in their boats. The river looks like a swamp of fire-flies. Each boat, however small, has its little shrine, at which tapers or incense sticks are burned morning and night. . . .

A fleet of boats is getting ready to sail with Chinese soldiers up the river to attack robbers, who are in great force some twenty or thirty miles off. Robbers have taken several towns, and Canton would be in danger but for the allied occupation. The boats are gaudy with banners and devices and brave mottoes, and the soldiers have "victory" painted on their breasts. They are armed with spears and shields and a few matchlocks. It is said that not one in ten of them reaches the destination; they desert. There was a great beating on drums and gongs, and burning of incense sticks, and throwing to the winds of gilt paper, for a propitious voyage. . . .

March 11. Sunday. Up early. . . . As breakfast is late, take tea and toast, — tea a delight to smell or taste. Walk balcony over river until breakfast. See the families cooking, sewing and washing in their little boats. . . . Such fleets of market-garden boats, with meats, fruits and vegetables! Then shop-boats and mechanics'-boats, and large passenger boats going to and from the country (for a boat can go, by canals or rivers, all over China), and soldier-boats, and mandarin-boats, and cargo-boats, and the large, ornamental hong-boats, the pleasure-boats of the merchants. . . .

Cross the river in the hong-boat of Russell & Co. . . .

Now we pass the gate in the city wall, a French sentry one side and an English the other, and are in the city, where, in the world's history, no foreigner has been, with their knowledge, until now.

And what a strange world within! This long, narrow, winding alley — not over four feet wide, from house to house, crammed, jammed, brimming, overflowing; shops, shops, shops, men, men, — a stream of life drifting up and drifting down, — cries and talking; now and then a sedan chair, at a slow trot or fast walk, crying out to make way, make way! Little, minutest shops, crammed full of things to sell, and the grave shopmen behind their counters. Little bits of shops, full of little people working at the minutest work with the minutest instruments! Coolies, in shirt and short trousers, bare-headed and bare-footed. A better class, in long robes, skull-caps, shoes and long socks; women in their sober, comely dress of close-necked tunic and long trousers, some stepping free, with feet of natural size, and some tottling on their little goat's feet, just able to get over the ground, in that mincing, swaying, tottling gait which they think so genteel. Close sedans with ladies behind closed blinds or curtains, or with a grave mandarin or Chinese gentleman, with pre-cursors and post-cursors, crying out to make way, and carrying, one his umbrella, another his fan, and another his lantern, and another his tablet of rank and office. Through all this we drift along in our open chairs, at a jog-trot, carefully navigating round the corners, and if two chairs come abreast, making a dead stand, and edging sidewise into the shops. At some places we stop to see the wares and work. All is done in sight and much in open air.

At each open space, where there is a little more room, is a barber with his chair and tools, and a cook with his portable furnace and little table of eatables, and a money changer, or a gambler, or a juggler. . . . There is a man bowing his head to a block, while the barber shaves and washes the crown, and there the barber is picking out an ear with a stick, delicately, and here he is nicely touching an upturned eyelid. In the shops are silk-weavers, wood-carvers, ivory-cutters and carvers, seal-cutters, spinners, lacquer-workers, — an ant-hill of industry! Everything done by hand and nothing by machinery. You might as well introduce steam into an ant-hill as into China. What would become of these three hundred million workers, each making the ninth part of the pin, and each getting enough to eat and to clothe himself? . . .

Visit to the garden of the great hong merchant, Howqua. He is son of the great Howqua who died a few years ago worth, it is said, thirty millions of dollars. The gardens are his pleasure house and grounds, in the suburbs. Like everywhere else, you go to it by water. There are some twenty acres of fish-ponds, lakes, canals, stone bridges, grottoes, temples, pagoda roofs with stone pillars to shade the sitters at the beautiful tables of marble and ebony, grass plats, terraces, flowers in beds and flowers in pots, trees, shrubs, the lotus and the banyan, urns of flowers, the walks all paved with brick or large flags of stone, lines and lines of walls of open brick-work with stone copings, some two or three feet high, on which rest thousands of flower-pots with every kind of flower; and then there are singing birds, cooing turtle doves, and falling, gurgling waters. What an

enormous outlay of money! Worthy the Khan of an Oriental empire!

From this we go to Puntinqua's gardens (pronounced Poon-tin'-qua), which are larger and richer than Howqua's. In the midst of these gardens is a private theatre. One house is for the guests, and another, separated from it by a canal of some twelve feet wide, in which swim fish and out of which grow creepers and shrubs, is for the stage. It is luxury itself. The guests sit at open windows, in large chairs, with tables before them, and look across the water to the stage. Also there is Puntinqua's summer-house, full of rooms, and furnished with chairs, tables, mirrors and bedsteads. The favorite style of chair is to let in pieces of polished stone for backs and seats, which have different colors, resembling scenery. Some of the tablets, chairs and tables are extremely costly. Some of the canals are large enough for large pleasure boats, and one, almost dismantled, stands by the theatre. . . .

March 12. Rev. Mr. Bonney breakfasts with us, and gives me his day. We have an open chair and three coolies each, but walk for convenience and exercise most of the time, coolies following. He speaks the language and knows the habits of the people; so this is, in fact, my first real visit to the city for any useful purpose.

We dive into the little streets with their close jam of shops and people. A street in Canton is like an entry in the upper story and rear of a large country tavern, about as wide — doors as close together. They are all flagged with stone and perfectly clean, more easily kept so, as there are no horses or large animals in them. All is foot work. These little lanes are

very gay, and even gaudy, with decorations, little flags and tablets and strips of cloth and paper of all colors, with inscriptions in Chinese characters. These almost cover the street overhead from side to side. The houses are a story and a half high, the half story above for sleeping. . . .

Went into a shop where [they] made pottery, porcelain cups, etc. The master and his long-robed workmen were breakfasting at a table in the front room, and the coolies in a back room. Breakfast of coolies was rice in abundance, tea, a made dish of vegetables, and some little cakes of flour or ground beans fried in oil. The table and plates were clean and neat, and their food well cooked and neatly set out. Their meal was neater and more wholesome than such as the poorer classes of England and America get. Think of our grease and fat, and tough meat, bad bread, and worse hot cakes. I have seen something of the cooking of England, France, Spanish America and China, and believe the worst cooking in the world is that of the middle and poorer classes in America. The Americans and English are not cooks. The French and Chinese are; and so are the Spanish to some extent. Think, too, of the great junks and slices of heavy meat we all eat at home! Think of the head of a family, up to his elbows in blood, distributing half raw meat among his children, from fork and knife reeking with blood! Then a few waxy potatoes, clammy bread, and hard, thick pie crust! . . .

Visit Temple to Confucius. (His Chinese name is Kung-Foo-Tze, which the Jesuits latinized to Confucius.) Large grounds walled in, silent groves, large trees, broad walks of flag-stone, and one large

temple in centre, one story, pagoda roof, high, stone floor. No idol or image in it, but simply a tablet to the honor of Confucius, on a kind of high dais, with an inscription over it, "Sacred to the Spirit of Kung-Foo-Tze, the most sacred teacher. None such have been before him, nor since." In another place, "The teacher of one thousand generations."

On the sides of the temple are tablets to the great pupils of Confucius, the chief of whom is Mencius (Mǎng Tsz.) There are no priests or preachers or teachers of the Confucians. He established no religion, no system, no sacrifices, and pretended to no revelation. He was simply a philosopher, teaching only moral philosophy, political economy, the social duties, manners and ceremonies in public or private life, the duties and rights arising out of the social system, etc., — with maxims, proverbs, rules and parables. On these his fame is founded. They do not elevate him above a human being, but venerate his memory and pay honors to his spirit, not by prayers or sacrifices, but by creating temples or monuments, by tablets, and two or three times a year by a great procession of all the dignitaries, reverential salutations, etc., etc. A scholar who resides at the temple — for it is a kind of refuge for poor scholars — told us he had been through five of the annual examinations, but had failed each time. "Why so?" "My poor exercises were not thought good enough." "Shall you try again?" "Yes, I have nothing else to do." . . .

The last place of our visit to-day is the "Execution Ground." Here, for centuries, the capital punishments of the city have been inflicted. Here thousands and tens of thousands have been beheaded, and the soil is saturated with human blood. Nor is this

all. Tortures the most frightful have been inflicted here, such as it can hardly enter into the mind to conceive, and the air has been rended with shrieks and cries of the ultimate agonies of men.

Yet the ground is small and obscure, with no indication of its purpose, being merely an open space or yard, behind a row of humble dwelling-houses, some half acre or more in extent, without any public building or other mark of a public character to it. Broken pottery lies about it, and people pass and repass over it, and when not in use for executions it is used as a rubbish yard by the neighborhood. Mr. Bonney told me he saw fifteen men beheaded there not long ago. The convicts are tied hand and foot, made to stand in rows facing all one way, with heads bent over, and two or three executioners, each with a sharp cleaver, go along and lop off their heads, with one blow to each; the head rolls off, the body starts up and falls over, and a very few minutes does the whole work. Sometimes two hundred have been beheaded here at a time. Last week two were beheaded. They were to have been flayed alive, which is the favorite process, but the British officers forbade it, and the judicial mandarins had to content themselves with lopping off the heads.

A gentleman, Mr. Owen of the British Co. House, told me he was here once at an execution, and saw them begin their cutting up of a live man, but was obliged to leave it was so dreadful. They began with their very sharp cleavers to cut slices off his cheeks and breast and thighs and to lop off fingers and toes. The decree of the court orders death by a certain number of cuttings, and the skill of the executioner is shown by getting all his cuts, his twenty, fifty or a hundred, before the man is fully dead.

This miserable, dirty, undesignated back-yard of a place has been for centuries the scene of these horrors. . . .

March 14. Wednesday. . . . To the Honám Temple at five P. M. to see the priests worship. This is by far the largest temple and grounds in Canton. . . . The worship began just at dusk. There were twenty-eight priests, probably the whole number now occupying this once populous monastery. . . .

I must say that the manner of the priests was grave, slow, reverential and dignified, — the old Oriental tradition of manner, — and much better than that at the cathedral at Havana, which it a good deal resembled. If the idols had been removed and the furniture of the Cathedral put in their place, I could have recommended these boys and men as patterns to the boys and men of the Havana Cathedral.¹ The close resemblance of the Buddhist worship to the Roman Catholic has been noticed by all writers and travellers. It is so striking that some of the early Jesuits in China ascribed it to the work of the devil, counterfeiting true religion. Some will attribute it to a common element of idolatry and formalism, and others to the common traditions of the patriarchal ages, — as the temple worship at Jerusalem, with its bloody rites, its altars, its priestly vestments, its images of Cherubim over the Mercy Seat, its brazen oxen, and its memorials of Moses and Aaron, differed not much *to the eye* from that of the surrounding heathen nations. But one was to the Most High, and the other to idols. . . .

March 17. Saturday. This day by Mr. Bonney's kindness is given to an expedition to the White

¹ *To Cuba and Back*, pp. 55-58.

Cloud Mountain. This is a hill, about the height, I fancy, of Blue Hill, Milton, lying about six miles to the northeast of the northeast gate of the city. . . .

We leave behind us the venerable walls of the city, more than eight hundred years old, grass-grown, shrub-grown, and even tree-grown, on their perpendicular sides. They are perpendicular faces of brick outside and sloping earth mounds inside.

As we get out into the country we see something of Chinese horticulture and agriculture. Large paddy fields, low and wet, where the rice is sown and nursed, and from which, when it has reached a height of six inches, it is taken up and set out by hand in open rows, in wider spaces, in the dryer fields. Next are tea fields, where the tea shrub, with dark green leaf, and looking like a close clipped hawthorn hedge, is growing. Then there are sweet potato fields, and olive fields, where the tall, thin olive tree grows, with dark green leaves.

Now we leave the low country and ascend the hills. These hills are rocky and entirely barren of trees and vegetation, except in the little valleys or cañons, where the water flows over rocky bottoms in the wet season, edging them with rich green grass and shrubs and trees. But these barren hills are cities of the dead! Not one hill, or one field, but every hill, every high field, is a cemetery, a necropolis. . . .

The tombs and graves follow us all the way up to the very summit of the White Cloud Mountain, and on the finest sites, commanding the noblest views, but always on high and dry ground, the tombs are built. And every step of the ascent, from the first leaving of the low ground to the top of the mountain,

the broad walk is paved with wide flag-stones and, in the ascents, these stones are laid in stairs. . . .

Now we are nearly at the top, and here, in one of the most delightful spots conceivable, stands, or rather lies and nestles, the monastery of the White Cloud. It is built in a little valley which opens wide at the lower end, disclosing a view of the river, city and distant country, while the site has the advantage of perfect quietness, seclusion, a look of entire repose, the shade of trees and rocks and hillsides, the fall of water and the singing of birds. And how exquisite is the note of that bird in that deep green tree just over the farther roof! We stand and listen, and catch it again and again. It is a new note to me. As liquid as falling water, and so rich and soft in melody. . . .

Return to the monastery. Its architecture is as noble as its situation. How lofty, how spacious, how airy, how strong is everything! A noble stone bridge, a noble platform of stone, such spacious halls and passages and courts, and all so solid and so ancient! To be purified from its Buddhist idols, and transformed to a Christian college, school or monastery is all that it needs. How I would delight to come here, in the heat of summer, and spend a few weeks of leisure with books and nature! . . .

Between the White Cloud monastery and the city, by this route, are three monasteries, two Taoist, and one Buddhist. We stopped a while at each. At the Buddhist is a large image of Buddha, which represents him as a fat, jolly god, with a huge paunch and fat laughing eyes. "Yes," said the priest, "he does not trouble himself about anything. He is always happy and easy. Your God does concern himself

with everything, Buddha does not. But you see he is happy to see you." "Yes," said I, "and equally so to see us go away." "Yes, yes, he cares for nothing." How much of this is sincere confession, and how much is Chinese politeness? . . .

The last thing on our way in is the village devoted to the lepers,—the Leper Village. What associations of ancient story does the very name recall! We turn aside and enter it. I may well say enter it, for it is as close and compact as a fortress, though without a wall. And how filthy it is! The main street is straight and flagged, about ten feet wide. From this the side streets run off at right angles, mere dirty passage-ways between houses, and not over four feet wide. A respectable looking man, the best dressed, comes forward and offers to be our guide. He is not a leper. He says he is of a younger branch of the Howqua family. He lives here because his wife is a leper. Not one in ten of the people we see, including children, are lepers. They are the children of parents, one or both of whom may be lepers, or they are husbands or near relatives of lepers sent here, whom they have faithfully followed. Some not lepers remain here, because they were born and have always lived here, and have property here. They do not seem to think leprosy contagious or infectious. The lepers are not white, as I supposed. On the contrary, their skin is red and blotched and swelled, like a spot just recovering from being frozen, and, in some cases, the hands and feet dwindle away and fall off. Even here the all-pervading Chinese literature extends itself. Here, at the end of a dirty passage, is a school of some twenty boys. Not one of the boys is a leper. Perhaps the leper boys are kept

apart, though in the streets and at the little temple they all sit and walk together, and in the temple porch we saw four men playing cards, two of whom were lepers and two not. In one corner of the school-room, in a square part set off to him, was a pig! He was clean enough, to be sure, but a pig in a sty; and close against him, not four feet off, sat a boy of ten studying Confucius! . . .

Now to the walls again, into our chairs, through the gates, along the narrow, close, gaily decorated, intensely alive, and industrious streets, two or three miles, and then the river, the sampan girls crying out recommendations of their respective boats and smiling at us, showing their white teeth. We select one that has a little earnest boy of eight or ten clamoring for us, and are landed at the Russell & Co. hong, which the boat people call "Lussel-y Hong," as near as they can get to it, at exactly five P. M., in time to get ready for our dinner at the house of Yung Ting, the nephew of the great Howqua. There are four visiting cards from Yung Ting on our table, one for each of his expected guests. These cards are pieces of red paper, about four inches by two, with the name written on them. These visiting cards they had, too, in China before Europe learned to write.

Reach the house at six o'clock. Received at the door by an upper servant. Yung Ting soon appears, a man of about thirty-five, dressed in plain gray silk, high-necked, long robe, with black skull-cap. None of the Chinese show or wear any white linen or cotton. We are led to an open room, opening into a court, and take seats. Yung Ting inquires with anxious solicitude the name and age and residence of each guest, and seems struggling to keep all in mind.

The guests are Mr. Delano, Mr. Orne, Rev. Mr. Preston, who is also interpreter, and myself. Tea is brought as soon as we are seated. When he is called out by his steward for an instant he apologizes all around, and places his little boy, who is formally introduced to each of us, a boy not over ten years old, in his chair, to do the honors in his absence, though it is but for a moment. The little boy looks as composed and grave as a mandarin, with no boyish awkwardness. Then Yung Ting reappears, dinner is announced, and we are led to another room. Here is a table for six, for the boy sits at the foot, grave and silent, for three hours, eating little, but never faltering or moving from his upright, respectful position, and never speaking.

The room is brilliantly lighted with Chinese lanterns and European chandeliers. There are some six or eight servants waiting on the table. It is set with fruits and flowers and some ten or twelve dishes of preserves, but the preserves are no more offered to us to eat than the flowers. Our seats have no backs, which is tiring to us, unused to that since school days. There is European wine and Chinese, — which will we have? — Of course we choose the Chinese. This is always served hot, from little China teapots, in very small porcelain cups, not over two thimblefuls to a cup; but when your host drinks with you, you must exhaust the cup, and turn it upside down in proof of your fidelity to the *rites*.

Now begins the series of courses. I did not count them. I am sorry I did not. We agreed that they must have been between twenty and thirty. And such strange compositions — fins of sharks, sinews of dolphins, berries of the lotus. The most *recherché*

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and improbable things are the most prized. Yung Ting told us fairly that many of them had no other merit, and were made eatable by condiments only. I ate too much of the first courses, not expecting so many, and the courses began to pall. But I did not like to refuse. I tasted of each, and our host required ever so many little bumpers of us all, and I feared we were all overcharged with food and liquid, — not that the wine was at all intoxicating, for it is weak, and we did not take enough for that; but it is sweet and palls on the taste.

A course consists of one dish, and that is given to each guest. There is no helping from large plates to small, but to each guest is brought a large teacup or deep saucer full of what he is to eat, seasoned, mixed with its vegetables and sauce, and covered to keep it hot. Sometimes there is a second dish, for the sauce or seasoning. Chop-sticks of ivory! It is my first attempt, but I resolved to do or starve, and after frequent failure, get the knack of them pretty well. For the liquids — some courses are soups — we have porcelain spoons. The last course is tea, which is always a signal to go. Our dinner took about three and a half hours, and all devoted to the courses, with little intervals. This style is very favorable to conversation, as there is no helping and offering or requesting of things to eat, — the bane of an ill-served dinner at home.

But how exquisite is the politeness of Yung Ting. He exhausts ingenuity in framing inquiries to show his unspeakable interest in each of us, — our ages, if married, how many children, and of what sex and ages, how came here, if had pleasant passage, how many days, was the boat crowded, was the weather

good, — and at each question he bends his eyes on you, anxious for your answer, and if your ship was crowded or the weather bad he is distressed, and if it was good he is relieved and delighted. Then, when you speak to him or answer his questions, he never allows himself an abstracted look, but fixes his eyes on you, and gives frequent emissions of guttural sounds, to denote his attention and interest and varying emotions. Indeed, he knows nothing but the pleasure of his guests. To that everything bends. Now, all this is from the books of rites, which educated Chinese study from early boyhood — books written two thousand years before Chesterfield was born.

From dinner we adjourn to another room, where tea is offered again. (I forgot to name, as an instance of the freaks of fashion, that the dishes he took most pride in placing before us were European porcelain, when many of his plates and cups would be worth their weight in gold in Paris or London among connoisseurs.) Now he invites us to walk round his house, and we are shown through a series of rooms for sitting and rooms for sleeping, — no women's apartments, however, are ever shown to men, nor can Madame Howqua or Yung Ting be seen on any terms, — and a library, which, being of unbound books, looks like a paper shop, etc., etc., and one shrine, with tapers and incense sticks. His ancestral hall is, I suppose, that of the Howquas. . . .

When we rise to depart our host says he has chairs for each of us. He bows low and takes impressive leave of each of us at the door, and again at outer door, and we go home, through the narrow streets, a

flashing train of lanterns, — Chinese lanterns, — two or three hung to each chair, and lantern bearers before and behind our train. . . .

March 21. Wednesday afternoon. At Macao. Talk of palaces! I have never seen in an English gentleman's or nobleman's house such chambers as there are in this house, where I am lodged, the guest of Mr. Ward, our minister. My chamber is nineteen paces long and twelve paces wide, and about twenty feet high. The walls are two and one half feet thick. It is a palace. It was built by one of the wealthy old Portuguese families, and bought by Augustine Heard & Co., who still own it. As they live and do all their business now in Hongkong, they use it only as an occasional place of resort for a pleasure trip. Yet this gives an idea of the style of these Anglo-Chinese merchants, that they maintain such a palace for old association's sake and a little present convenience. Heard & Co. put the house at the disposal of Mr. Ward during his sojourn in Macao, and he invites me to be his guest. Mr. John Heard, of the firm, is also here for a day or two. And we three gentlemen, each living *en garçon*, wander about these huge, lofty rooms, with their echoing bare floors, and under the shaded piazzas. At one side of my room is a bed, a portion of which I occupy with sheets and blankets of the usual width, leaving several feet of waste land on each side. One gets exercise enough in walking from the toilet-table to the washstand — a chamber of magnificent distances.

But, how came I here? I left Canton at 7.30 A. M. in the little steamer Spark, taking grateful leave of Delano, Orne and Shepherd, and "Old Head" (who desired his remembrances to Mr. J. P. Cushing,

Messrs. Forbes, etc.), and steamed down among the tossing and tumbling sampans and hong boats, banging against each other under our paddle-surf, but the laughing girls never losing their temper, and men reaching poles on board with letters attached at the last moment, after we are under way, — and we pass the now familiar grounds of the old factories and the Dutch Folly, and pass the great junks, with their preposterously gaudy banners and red scarfs tied to the muzzle of each gun, — and now the ruins of the barrier forts, and now the tall pagoda on the hill-top, and are clear of the city and down in the wide estuary. There lies the French steam frigate, and there the British admiral's tender, the *Coromandel*, and there the British gunboat "89," and here is steaming slowly up, with a leadsman in the chains, gunboat "87," both "walk-y insides" and rigged with three masts, with fore and aft sails, and a square topsail at the fore. . . .

March 22. Thursday. . . . Mr. Hunter calls. Go with him (Ward and I) to Camoens's garden and grotto. The garden is the private property of a wealthy and ancient Portuguese family, who have owned it over two hundred years. It is the garden of their house, under lock and key, but is opened to all who send in their cards. I think it is the most beautiful garden I ever saw. Excellent taste has been shown in dealing with nature, for the garden is a rocky, broken ground, with boulders and large trees, yet interspersed with the nicest arrangements of horticulture. At the top of one of the hills, commanding the full sea view, is the grotto where Camoens used to sit to read and to compose his *Lusiad*. And how it is honored! A kind of temple built over

it, and a pedestal surmounted by a terra-cotta head of Camoens, and several tablets erected by the voluntary gift of admirers. Next this garden is the Protestant burying-ground, a beautiful spot, filled with graves, the stones and monuments over which are in the highest degree creditable to the liberality of the English and American residents here, as well as to the piety of the friends of the dead. . . .

March 26. [Monday.] . . . Walking through the streets of Hongkong with Mr. Delano yesterday a Chinaman came up to me with beaming countenance, and, with that practical equality which marks their common society, said, "Ah! How you do? My glad see you!" and held out his hand. I shook hands with him, but could not remember him, as all Chinese look alike at first. "My in ship, burn up—you savee—you have got." "Oh, yes, the Mastiff." "Yes. Very good, very good." And he told me he came in the Eliza and Ella from Oahu to Hongkong. The good fellow seemed truly glad to see me.

March 27. Tuesday. Sailed in P. & O. steamer Pekin for Shanghai, 9.30 A. M. Left the shelf on the hillside on which Hongkong stands, its flying flags of all nations afloat and ashore, its men-of-war and its merchantmen, and steamed through the high hills and bold shores and frequent islands, steep and bold, into the open sea. Opposite to Hongkong, on the peninsula of Kooloon, are the tents of the Forty-fourth Regiment, which has taken possession of it, a most important movement in the history of China, for if the British hold it, it will probably surpass Hongkong. . . .

From Hongkong, on the 27th of March, Mr. Dana sailed for Shanghai. The steamer reached Woon Sung on

the 2d of April, from whence he went up the Yang Tze Kiang River by boat to Shanghai, where he again became the guest of Russell & Co. After being entertained here in the princely way usual with the great Chinese houses of those days, he wrote on the 5th of April:—

To-day, great pleasure and advantage of an offer of a passage to Japan in Dent & Co.'s steamer *Yiang Tze*, in which Mr. Dent is to make an excursion to Japan on a partly business and partly pleasure trip. He has invited, besides me, the Bishop of Victoria and Mr. Parker. It is a great opportunity. But for this, I should have to wait here indefinitely, perhaps two or three weeks. They sail Saturday, 7th. Long for that, as Sunday is Easter. . . .

April 7. Saturday. Steamer *Yiang Tze* for Japan. It is a huge, American-built steamer, commanded and officered by Americans. Parker does not go. So our company consists of Lord Bishop of Victoria and myself, as guests, Mr. Dent, his partner, Mr. Webb, Mr. Ashton, a merchant, and a small staff of clerks and interpreters. Get under way at noon. Pass the French frigate *Forban*, the English men-of-war *Furious*, *Roebuck* and *Nimrod*, and the fleet of merchantmen, and the great transport which last night brought up Sir Hope Grant and staff, and the fleet of junks, with their great eyes and gaudily painted sides and scarfed cannon, and are out in the great river. . . .

April 9. Monday. Land of Japan in sight. Cape Gotto, some eighty miles from Nagasaki. Run close in. Land is bold and rocky, but with more trees than that of the southern coast of China,—evergreens, pines, etc., and patches of rich green. There are no sandy and flat spots. All is bold, hilly, rocky

and well-sprinkled with trees. My first view of Japan!

We are heading, the captain tells us, for the entrance to Nagasaki, but it cannot be seen. There is no sign of an opening of a harbor, but only bold hills with green valleys. Vessels have been known to cruise here two or three days without finding it. Round a little point we go, and behind an island, where there seems no room, and we open a narrow deep channel. Here is a fort, and there a few houses; and how very prettily that little village lies on the slope! There is a Japanese boat, with a dark-blue jib and a white mainsail. Now, as we pass rapidly along the shore, cultivated spots, groups of houses, increase. The distribution of hills and valleys, trees, rocks, green spots and houses, is beautiful, and the bay is completely land-locked. Here, on the left, as we enter, is the famous Mount of Martyrs, where the early missionaries and Japanese Christians were martyred. Here, in 1597, twenty-six Franciscans and Jesuits were crucified. And, for nearly a century afterwards, the executions of persistent Christians, foreign and Japanese, took place, until it became a place of terror at times, and at times a place of pious pilgrimage by Christians, and gained its name of Holy Mount, or Mount of Martyrs. . . .

April 10. Tuesday. Beautiful morning, and nothing can be more lovely than the scene from the deck of our steamer. There are patches of granite rock, with evergreen shrubs and trees about them, as on the coast of Beverly and Manchester, and patches of cultivated land. Above Nagasaki, the land is terraced on the hillsides by walls of stone, and well cultivated, and among the stones and over the walls is a

thick growth of creepers, like the English ivy and lichen.

Go ashore. . . . Finding it almost impossible to lose my way between the hills and the harbor, I wandered about by myself for three or four hours. Among other places, I go to a theatre, where a play was going on before a very large audience, promiscuous, of men, women and children, crowded, jammed in together, under a roof of bamboo and grass. The play consisted, as in our lowest style of farces, of practical jokes, of falling and pushing and striking with fans and brushes, and high, sharp, unnatural tones of voice. At the side of the stage was seated on a mat a man who seemed to me to act as a chorus, occasionally speaking and singing. . . .

The streets are wider than those of Chinese cities, full twice as wide, and well-flagged with broad stones, and neater than the Chinese. Here, also, there are no carriages, — only human foot-falls, and curious foot-falls they are; for all wear the sandal, the heel of which is not tied up, but flaps at every step, slip-slap, slip-slap, so that there is a perpetual clatter of heels in the streets; indeed, the only sound to be heard but those of human voices. . . .

Walking at random through the streets, through an open window I saw one of those public warm baths, of which so much has been written, and which tell the tale of Japanese life so fully. They were open to sight of all who chose to stop and look at them, and the bathers seemed shameless. A woman sat on a platform by the window mending the clothes she was going to put on, heedless of the passers-by. In the bath were some eight or ten men and women, as close as they could well stow, while others were

wiping themselves on the platform, in a condition tolerable only before the Fall. Yet there was nothing improper in their conduct. For aught one could guess, the secret might be that they knew no evil; but the fact is known to be that they know more evil than any other people. All foreigners here agree in their testimony that, in one respect, the Japanese are the most shamelessly immoral people on earth. . . .

April 11. Wednesday. . . . The Japanese children are very pretty and engaging. They look happy, as if they were well treated and well fed. I am told that the parental rule is gentle. I think in two days I have not seen or heard a crying child. They have very bright eyes, white teeth and clear brown complexions. The young girls, too, are pretty. Low broad foreheads of the Greek type, thick black hair, white teeth and intelligent ardent eyes are common. But as soon as they come to the age of blackened teeth they are hideous. They keep their mouths open to exhibit their black teeth, surrounded by highly rouged lips, which gives them a look of toothless fatuity, as if of extreme old age. Besides the rouge, which is so common on the lips and cheeks, they often whiten the rest of the face and the neck to the hue of the palest northern complexion. A Japanese married woman is this:—black teeth, rouged lips and cheeks, neck and rest of the face whitened, and black hair dressed on the top of the head with ornamented combs and pins and stiffened by a wash of thin paste. . . .

April 12. Thursday. At sea again, going round the south coast of Japan, bound to Kanagawa. . . .

April 13. Friday. Very heavy sea all last night and all to-day. None but a strong vessel could stand

it. Captain Dearborn, who has been thirty years at sea, and is a moderate talker, tells me it is the most dangerous sea he ever saw. It comes from all directions. It stove in our larboard box and swamped a boat which was above the hurricane deck. All day eight men are employed driving the water off decks. It comes pouring over all parts of the ship. The captain thought at one time it would carry off everything. The seas off Japan have the reputation of being the worst in the world. The Chinese servants were all fastened below, under battened hatches, all sea-sick. There was something bewildering in the effect of the seas as they tossed about and broke over us, and we tore through them with the power of our great engines. It is a wonder to me that the complicated machinery of steamboats holds out so well.

Yesterday was a calm, beautiful day, and the picturesque coast of Japan, blue in the distance, passed by our sides, mountains, hills and vales. At night it was so dark that, on deck, I could not see the passage down, and had to grope like a blind man, and the sea was all alive with phosphorescent light. I thought something was going to happen. Roll, pitch, plunge, bang, swash, all day long, — a dreary time. I read Oliphant's "China and Japan," but not with pleasure, and those who are not sea-sick are rather grouty.

April 14. Saturday. All cleared off. Fine day, and sea almost smooth. All hands bright again, and the canary birds are singing.

April 16. Monday. At Yokohama, the seaport of Yeddo, in the centre of the kingdom of Japan! On shore, at the house of a kind friend, walking in the country among groves and plantations and temples

and the huts of the poor, by hillsides and rivulets, and examining the rich trees and foliage and flowers of this wonderful country. Have I not every reason to be thankful for the success that attends my steps?

But, to go back to my voyage here. All day Saturday we were out of sight of land and at sundown none was to be seen ; but no sooner was it dark than first one volcano, then another, and at length four were to be seen, now fading almost out of sight, and now brightening up into a steady glare, through the darkness. They must have been very distant. Coming among islands, our captain, whose charts, the best to be had here, were thirty miles out of the way here, putting us at noon some twenty miles in the country on a mountain, hove us to under short head of steam until daylight of Sunday, and all Sunday morning we were on deck, watching with delight these beautiful shores as we passed up the great bay of Yeddo. The shores are as beautiful as the Isle of Wight, the best points of Staten Island, or of the North of England. No land, no flats, no rugged bare hills, nor merely a rolling country ; but such a disposition of hills, valleys, slopes, small plains, occasional rocks half concealed by evergreens, and the whole sprinkled over with trees, sometimes sparse and sometimes in groves, and signs of the most elaborate cultivation, terraced gardens, the deep green of the rice-fields, and the brilliant yellow of the rape-seed. Then this magnificent bay, as open as the sea, twenty and thirty miles across, seems all alive with boats fishing for the great market of Yeddo, and the daily wants of the dwellers on its shores. To count these boats is out of the question. They dot the horizon as thick as an artist could put them on his canvas. . . .

While we are looking at the shores, — through our glasses, — I see a large cloud close to the horizon, singularly regular in its shape. It is broad at the base, very high, and cut sharp off at the top. “Do you see Fusi-yama?” “No.” “There, just where you are looking.” “That? No, impossible; that is a cloud — all snow-white — too high for a mountain.” Is it a cloud or a mountain? — That is the question. John Bull proposes to take a bet on it. As we draw nearer, spots, thin strips of dark green are disclosed on its sides, low down; but all its upper half, at least, is pure white, the white of snow, — for the great mountain volcano of Fusi-yama it certainly is.

Now comes in sight the shipping at anchor, in front of the double town of Yokohama and Kanagawa. . . . Three custom-house officers, each with two swords, go into the cabin and take notes in strange characters of the captain’s report and drink their curaçoa; and a midshipman from the *Camilla*, for letters and newspapers, and some half dozen Americans and Englishmen come in sampans. Among them is Dr. Bates, son of my kind host at Honolulu, established here as a physician, and soon Dr. Hall comes on board, to whom I have letters, and invites me ashore to be his guest. . . .

In the afternoon Dr. Hall takes me on a delightful walk into the country, for a mile or so. I cannot cease admiring the picturesque beauty of the disposition — the lay — of the land, in this world of Japan. The hills are just high enough; they are of every shape and form; the valleys and levels lie delightfully among them, and the trees shade everything; and every wall, every stone, every big trunk of a tree has its “garniture and screen” of ivy and other creeping vine. The ivy is that of England, without poison,

and an evergreen here. There are sturdy oaks, too, for it to grow upon. . . .

April 25. Wednesday, [Hakodadi.] Ashore at six A. M. . . . After a breakfast on board, walk alone to the summit of the peak. Enjoyment of a lonely walk in the country to a man who has been long on shipboard! Always found it so in California and elsewhere. . . .

Walking through the streets, heard noise of children in school, followed the sound and came to a humble little house, in the porch of which was a collection of sandals, straw and wood, and inside some forty boys, from six to ten years of age, sitting on benches at little tables, each with a book before him, swaying their bodies to and fro, and all reading or repeating at the very top of their voices, making a horrid din, in this little, dark, low-roofed room. The grave old teacher sat in the midst, keeping a good eye over them. Here, as in China, the boys study aloud, and the reason is said to be that the teacher may hear the sounds they give to the characters, — for a character does not indicate its sound, but the sound must be taught. As the teacher and I had no language in common, I learned nothing from him. The boys looked very lively and happy — a contrast with the stupor of an eight-year-old school, when I was of that age.

I fully agree with the Japanese travellers in their opinion of the cheerfulness and happiness of the children. It is obvious. They sing as they go along in the streets, sometimes three or four hand-in-hand, and the discipline seems easy. Parents seem to be affectionate and equable with them, and so their elder sisters, who lug them on their backs. Saw two little

girls, some five years old, sitting on a bench, before a door, and singing and beating sticks in time. They looked so pretty and good that I gave them a silver ishu (worth about eight cents) — a fortune to them. They bowed their little foreheads to the bench, in adoration, and would not raise them up until I was out of sight. . . .

April 26. Thursday. Sailed from Hakodadi at daybreak, through the straits of Sangar, and at eight o'clock were out in the Japan Sea. So we shall circumnavigate Nipon. . . .

April 29. Saturday. Last night, being thirty miles off by our reckoning, came near running upon an island of the Oki group, a current having set us thirty miles to the southeast in fifteen hours. The bright lookout always kept here saved us. Captain D. had been told that the current here was the other way. Perhaps it is changeable.

“I'm on the sea, I'm on the sea,
I am where I would ever be!”

Not quite so — but the abundance of fresh air and exercise, the regularity of hours, the simplicity of food, the abundance of sleep, and the freedom from cares and duties have great value and charm.

April 30. Monday. . . . Here I am again, in my sumptuous rooms, at Russell & Company's, with all my luggage safe and in its old places, my bed, my books, a good fire (for it is cool at night), and a file of Boston papers, and tea, and so many kind and attentive friends, and myself brought back into life and health after a delightful and instructive voyage to a new empire! If one has not a heart of stone, here is a time and place for gratitude! And I felt it, when I sat down in my chair, and looked about me and reflected. . . .

May 6. Started from Shanghai this evening, on an expedition by boat to Suchau, — the famous city — the “Paris of China.” . . . We have three boats, one for cooks and chow-chow, and two for passengers. Mr. Walsh and Dr. Lindau in one, Rev. Messrs. Syle and Smith and I in the other. And a beautiful start-off we have! Full moon, fair tide, clear sky, and exquisite weather. The river, the bridges, the gliding boats give it a fairy-like air. . . . Our boats have settees, on which we sleep, and tables, book-racks and other conveniences, and we are entirely comfortable. Each boat has a crew of six boatmen, a boy to wait on each of us, and a cook and butler.

May 7. Settled our *régime* — to rise early and take tea and toast, and walk until breakfast, which is to be at nine. Dinner at four. Between breakfast and dinner, keep under cover. Walk again towards evening. The walk this morning was very interesting, along the track path, through little villages, stopping at temples, under groves of trees, and amid the fields of wheat, rice and vegetables which mark the endless industry of this people. Verily, there is no end to it. Every square foot is under cultivation and laborers are everywhere. . . .

At almost every house people are weaving cotton cloth, sometimes indoors, by a small loom, and sometimes in the open air, on warps nearly as long as a rope walk. Numerous little pits, in which they make indigo. The frequent little tributaries compel us to walk back into the country to find bridges, which we always find not far off — and always of stone, neatly arched. All the bridges across the Suchau creek are of stone, neatly built, high and arched. That at Wang Du is the largest we have yet seen. A few

pagodas in sight, and a group of small gates or arches, to the honor of persons who have been noted for virtue, especially to young widows who have refused remarriage. . . .

May 9. Wednesday. Our next point is the city of Pu Si. This is a large city on the Grand Canal, surrounded by very high, moated and ivy-grown walls, with populous suburbs. . . . But near the gate, on a stone platform, under a little roof of tiles, at a kind of market cross, lay three or four beggars, in their rags, piteous objects, one dead. He had died in the night, and no one had yet removed him.

Boats and late breakfast, and stop at the village at the foot of Wei San, the famous range of hills, the highest in this region. . . . The village, Wei San Tsung, is beautiful. . . .

From the village we ascended the series of hills, each (except the highest) having its temple. At the highest we stop, and spend an hour or two in delighted viewing of the broad landscape. The cities of the great plain lie beneath us. A boundless plain it is, appearing to us perfectly level, and so green with fields of wheat and rice, and cultivated everywhere. No fences, no roads, no feeding cattle; but rivers, canals, bridges, and endless, endless fields of grain, and mites of men at work, and mites of boats floating up and down, and the whole studded over with hamlets of three and four, or twenty and thirty houses each, standing under groups of trees and looking like islands in the green sea. The industry and the populousness of China! It has not been overrated. Large cities of twenty, fifty, and one hundred thousand inhabitants occur at not long intervals, and villages like ant-hills, while the country is alive with

laborers, tracking boats, dredging for the muck heaps, fishing, sowing, transplanting, digging and spinning in the open air. The Grand Canal, in a long silver thread, runs through the plain, to the northward, and there, just seen in the horizon, is the broader sheet of the Great River. And in that direction, not in sight, but not far off, lies the former capital of China, the southern capital, Nankin, — now in possession of the rebels, — the long-haired men. That collection of white tents at the foot of our hill is the imperialist camp, for the protection of this region. Bounding the whole western horizon, filling up a quarter of the circle, is the Great Lake, Ta Hu, looking like the seacoast, with no land visible across the waters. The air is so pure, the day so fine, the view so limitless, that we can hardly leave it in time for our descent. . . .

Indeed, our life in the boats is delightful — all agree that it is so. We go ashore and walk when we please, in town or country; stop and go on as we please. We have books and music, conversation, an excellent table, good servants and plenty of them, convenient places to sleep, wash, read or write, fine weather, neither hot nor cold, and new objects of interest every day, — and we are free from the noise and dust of a road, the steam, smoke, and oil and din of a steamer, and the rolling and pitching of the sea. We are floating, on an even keel, through towns, between fields, and past temples, pagodas and hamlets.

May 10. Thursday. Walk for an hour and a half along the canal before breakfast. After breakfast, pass the town of Mōk Tōk, the Bridge of the Winds, and towards noon reach the point of our destination in this direction, — the beautiful hill, Ling Nga San.

We mount the hill, and from the temple at the top (the Tsung Pan) have the most exquisite view any of us have seen in China. It is not so high, and therefore the view is not quite so extensive as that from Wei San, but it has more variety and more striking points, and the great city of Suchau with its tall pagoda lies beneath us, while the close view, the scene where we stand, is exquisite — a grove of evergreens, ivy-grown walls, a half-ruined, seven-storied pagoda, a venerable temple full of courts and passages and cloisters, — once an imperial residence, — enough for a monastery and college of hundreds of pupils, — all but entirely deserted, and terraces with walls of brick and stone, grown over with creepers, overlooking precipices at the foot of which lie the immense plains, teeming with people, boats, and hamlets, and covered with the verdure of unceasing cultivation. This is the sea-mark of our utmost sail, and we are satisfied! It is enough.

May 11. Friday, [Khwun San.] . . . The silence of a Chinese city is surprising. Two cities we have passed, under the walls, just after nightfall, and they were as silent as cities of the dead. So is it, even with this city, at high noon. No wheels and no shod hoofs, and the city gives out no sound. . . .

May 31. Thursday. Last day at Shanghai. Take leave early and at eight A. M. am under way for Hong-kong in the P. & O. steamer Aden. At Wosung, a fleet of French men-of-war and transports full of troops, ready to start for the north. . . . The Hartford does not look so well head on. Rises too much.

June 2. Saturday. At sea. How marvellous content I am at sea! Believe I was intended for a sailor. . . .

June 3. Sunday. At anchor in Hongkong, at seven A. M. Ashore at Russell & Co.'s at breakfast. . . .

June 4. . . . Grand-looking fellows, the Sikhs. Proud step, flashing eye, regular features, but black as black can be. Look at the Sepoy soldiers, in black, glazed hats, without front-pieces, looking into the glaring burning sun without blinking! How picturesque, too, is the white turban, with the dangling white robe and half-bare legs and dainty step! . . .

June 9. Saturday. Westward and homeward at last! Left Hongkong, Thursday, the 7th, at two P. M. in the P. & O. steamer Madras. . . .

June 18. Monday. Penang is the most beautiful place I have seen in the East. It is a large island, separated by a wide, still bay from the mainland of Malacca, — the town level, dry, and not low, and hills immediately behind it, sloping gradually up, and rising to small mountains, with a waterfall and picturesque scenery. . . . How very hot the sun is at noon! for, as we stay here but six hours, I must be about at noon, if at all. A double umbrella, linen over silk, and a pith hat covered hardly defend one. Yet the air is pure, and a gentle sea breeze blows all the time; and the sensations are delightful. . . .

Remembered that this was the place where George Channing died and was buried. . . . Drove to the cemetery. In outskirts of town, in good condition, handsome monuments, shaded with trees. In the multitude of tombs hardly expected to find what I sought, when I saw a small foot-stone, with letters G. E. C. At the other end of the grave was the headstone, of marble, in good condition, on which was the perfectly legible inscription: —

GEORGE E. CHANNING,
 BORN IN BOSTON,
 UNITED STATES OF AMERICA,
 AUGUST 10, 1815,
 DIED IN PENANG,
 JULY 20, 1837,
 FROM A FEVER CONTRACTED
 ON THE WEST COAST OF SUMATRA.

This was, perhaps, the most interesting incident of my travels in the East, the more so from its being unexpected. George Channing and our youth, our college days, our separation to go East and West in 1834, his coming down to the ship to meet me on my return from California, — these have been in my mind all day. I hope, too, it will gratify his family; and I plucked some grass and leaves which were growing on the grave, to take home to them, and a piece of brick which had crumbled off the arch which lies over the grave.¹ I am glad, too, to get rid of the associations I had had with Penang, — of deadly fevers, miasmas, Malays, and low, damp soil, and to see his grave amid so much beauty of nature and so much care of art. . . .

June 19. Tuesday. Highlands of Sumatra in sight. We are steering now due west, for Ceylon, and soon shall be in the Bay of Bengal.

Captain Brown of P. & O. S. N. Co.'s ship Madras, pronounces from the head of his table, that Poe is worth all the Lake poets put together, ten times over! . . .

June 25. Monday afternoon. The island of Ceylon, — that dream of the poet, — the isle of romance, of aromatic perfumes, in sight all day. Indeed, it is very beautiful. There are high mountains

¹ *Two Years Before the Mast*, "Author's Edition" (1869), p. 463.

in the interior, and undulations of hills and valleys all along the coast, and a dense vegetation of trees. The trees come to the water's edge, as in a lake, but the white surf that lines the shore and the small rim of beach show it is no lock or mere, but the great ocean that surrounds it. There are few breaks to this close approach of trees and salt sea, — here and there, at long distances, a broken, gravelly side of a hill. With our glasses we see a few houses which look large and well built, as if of Europeans, standing among the trees. This is the southeastern coast we see, between Tirncomalee and Galle. We shall be at anchor in Galle before dark.

June 25. Monday. Came to anchor at Point de Galle, island of Ceylon, at about four o'clock this afternoon. A waterspout follows us for a while outside, in the dim, half-rainy sky, but soon dissipates. . . .

Landed, and went to Fosette's hotel, where is a large piazza, opening on a large yard full of cocoanut trees, swaying in the cool afternoon breeze. It is delightful. We are nearly under the equator. . . .

June 26. Sailed at five P. M. for Bombay, leaving all our passengers behind, to take the expected boat from Calcutta to Aden. . . . Long, lingering last looks at this beautiful island, as it recedes, in the fading sun of the late afternoon, its deep green hills and vales growing dim, and the white surf that rolls all around its shores less and less audible. Good-night! . . .

July 2. Monday. Early to-day we make Bombay. It rains all the time, being the southwest monsoon, which is the rainy season, and is rather dreary.

July 3. Tuesday. In my room all day, finishing "Friends in Council," and reading the American

newspapers my friends the Parsees have sent me. My heart sinks at the nomination of "Abe" Lincoln and Hannibal Hamlin, instead of Seward.

Ride in the rain through Bombay. See but little. . . . What strikes me most is the free, graceful, queenly carriage of the women, — even the poor women that carry water on their heads. It is a delight to see them move. A white robe drawn over the shoulder hangs gracefully about them, allowing perfect freedom of motion, and showing the shape and movements, while they step off with a proud, dainty step, each a duchess; but no duchess that I ever saw walked so well. . . .

July 4. Wednesday. Early this morning my Parsee friend, Dossabhoy Merwanjee, send me, after the pretty Eastern fashion, a basket of fruit and flowers, in commemoration of our American holiday, with an invitation to dine, to meet some American residents. The latter I must decline, with thanks for the former. The dinner is to be at the house of Bomanjee Tramjee Camajee!

All parties, races, and persons in India agree in giving Sir Charles Trevelyan the credit of being the ablest civil ruler India has seen in this generation, however much they differ about his course in publishing his minutes. For insight into the native character, energy, and administrative genius and influence over the natives, he has had no equal.

July 15. Sunday. Ride to church this P. M. with Mr. and Mrs. Stearns, and get my really first view and notion of Bombay. . . .

It is the middle of the "rains," — the southwest monsoon, — and everything is green and rich and dank and mouldy. The mould affects all the houses, making them look as dull and dingy as St. Paul's.

The tanks are pretty places. . . . They are little lakes or reservoirs, open, edged with stone or grass, and in them the water is collected during the rains, for all the year. They are built by benevolent persons, and usually bear their names. They are free to all, to "come and draw freely, without money or price." Now I see the force of the Scripture figure, in these dry, hot lands. And there are the poor, drawing water freely; and by the banks they wash. And how graceful are these water-bearers, — the women, I mean! Here are a thousand swarthy Dianas, Hebes, and Caryatides. I cannot keep my eyes from them, — there is such grace, freedom and ease in their movements and attitudes. No credit to the Greek sculptors for their female figures if they had such before them. These women wear a short, low-necked, short-sleeved waistcoat or boddice, just enough to cover the chest, and then fold about them a piece of cloth, usually of a gay color, which falls to the figure, and is gathered up at the knee or thigh like the pictures of Diana. When they stand to rest or talk, they fall into the attitudes of the antique Greek statues. . . .

July 17. Tuesday. In a carriage saw a man having a full-sized crown on his head, with high points, gold or gilded. Bhawoo Dajee tells me he is one of the lineal descendants of Mohammed, who are known by that crown, everywhere, and are treated with honor or worship, — descendants of his daughter. His sons died without children. It is worth coming to Bombay to see a lineal descendant of Mohammed!

July 23. Monday. . . . Take leave, and go on board the steamer China, P. & O. line, bound to Aden and Suez. . . . At five P. M. steam out of the

bay, — which is a truly noble harbor, of vast dimensions, yet safe, and in the dim, cloudy monsoon leave the far-outreaching reefs over which the seas are tossing, behind us, — and steam directly out into the dull, leaden ocean, and dull, leaden evening sky, the tossing sea, and whistling monsoon.

August 4. Saturday. At daylight, the high, dry, treeless, verdureless mountains of the peninsula of Aden are in sight, and the low, sandy waste of the isthmus that connects it with the mainland of Arabia. Soon we can see lines of fortifications curving along over the rocks, and then a telegraph station and small houses. We wind round the rock, and see masts of ships, and then come to anchor in the harbor. . . .

After breakfast, go on shore. . . . It is scorching hot. There is a good breeze. It is only the sun and rocks that give the trouble. . . .

Passed the village of straw and mud huts, where the Africans live, along the shore, along costly causeways, through gates guarded by sepoy, to the Turkish wall, as it is called, which extends across the isthmus, and guards the landward side of the peninsula. There are two high hills of volcanic stone, rising from the water on each side, and between them is the passage. The hills and the passage are alike fortified and guns mounted. A siege of Aden must be a short matter, for no army can subsist before it long. It would be capture or retreat very soon. All the peninsula is volcanic stone, and mountainous, with valleys and little plains, lying like little ovens between the broken sides of the hot rocks, and this volcanic rock gives no water, at any attainable depths, except brackish water from the sea; nor does

it admit of vegetation. Nothing can be more dreary or, as an officer said to me, heartbreaking.

We drive along the ramparts, through a very long dark tunnel, and emerge into the town and camp. This is in the extinct crater of a volcano, with dry, crumbly pumice stone, hot, hot, hot hills, on all sides, and rising almost perpendicularly from the outer edges of the crater.

The town is larger than I expected to find it. They say there are 20,000 Arabs, with a sprinkling of Parsees and Jews, and several thousand Africans, who live in the village outside the walls. I think this camp at Aden is the hottest place I have ever seen, and the fine dust is extremely annoying. The sepoys do the exposed duty, the Africans the servile labor, and the Europeans are kept in the shade as much as possible. . . .

Certainly this Aden is a place to be seen. But great exigencies only will warrant a man's living here. Some of the fortifications are as high as the eagle flies, and one covered way is at a dizzy height.

August 5. Sunday. At 8.30 A. M. pass the Straits of Babelmandel and are in the Red Sea, Arabia on our right and the mountains of Africa on our left. My first view of the continent of Africa.

August 10. Friday. This is the sixth day from Aden, and we expect to reach Suez by midnight. Our fears of extreme heat have not been entirely met. The passage up the Red Sea in midsummer in a steamer is commonly thought to be the extreme limit of human endurance. Feeble persons die of mere heat sometimes. For three days it was intensely hot. The scene was this, and no more nor less: — a burning sun, a smooth sea, a dead calm or

very light breeze, and a hot haze lying over the African or Arabian mountains. We sleep on deck, wherever we can lay a mat and pillow, for the cabins are too hot. . . .

Yesterday was a little more comfortable, and today is delightful. We are between the Egyptian and Arabian mountains, in a smooth sea with fresh breeze. How aerial those mountains do look, — how barren, hot and deserted! On the Arabian coast we see the range that lies about Sinai and is called after it, and some say that solitary peak is Sinai itself, but no one seems sure. It begins to become exciting as we draw near these ancient, long-honored scenes of the world's history, Egypt, Sinai!

August 11. Saturday. Last night we came to anchor at Suez, and this morning we are lying in the narrow top of the Red Sea, with a sand plain on one side and barren hills on the other. The sunset last night disclosed the beauty of desolation. I can now believe that the hues in Hunt's picture of the Scape Goat may be in nature. The sands are not white but reddish brown, and so are the hills, and the flush of sunset makes them red. The hills are not hills, but the ruins of hills. They have been pared below the roots of all vegetation, and then sliced off, leaving bare the gravel and stones, and then gouged and hacked and sliced after every wild fashion. They are not only irregular in outline at the tops, but in the sides and at the bases. . . .

Landed at Suez at ten o'clock. . . . Took train at three P. M. for Cairo. Our course lies through the desert, — and it is a desert, — miles and miles of mere sand, but not white, a kind of brown or yellow sand, and those strange, shapeless, verdureless hills! No

one can live on them. I should think no one could climb them. They must exist for some meteorological purpose. The poorer Egyptians live in mere pens or pounds, — enclosures of mud or stone, with little or no roof and that flat, mere covers of straw, and open holes for doors or windows. They look like little cattle pens. Here and there are tents and men and women standing at the tent doors, at close of day.

I am now in Africa, and have set foot on all the continents, unless Australia be one, which I will not admit; and this is old Egypt, and hereabouts the children of Jacob came to buy corn, and hereabouts they passed out of Egypt, a disenthralled multitude! But what a country to dwell in and to travel in, — so hot, and no rain ever! There is not a tree or blade of grass between Suez and Cairo!

The sun goes down in a hot flush and the stars come out, and soon there are distant lights, and now a row of trees and houses, and then close streets, and a great "station," and we come to a stand. It is nearly 9 o'clock; there is no light in the station, but a small fire of fagots burning at the end of a long stick, and not a European in the station, but a crowd of howling Arabs. It is with great difficulty I secure two carriers, and have to wait for the men to beat off the cleats from the baggage crates by bits of soft stone, and can find no carriage, — as my train was not expected, — and start off into an unknown city in the dark, with two Arabs. But we find the hotel at last, and after bath and dinner I am at home in my room.

August 12. Sunday. Took donkey and guide and rode to find the British consul. This is the oddest place I have seen yet, — more picturesque than a Chi-

nese city, or even than Bombay or Poonah. In the old parts of the town the streets are as narrow as in Canton, and the houses are of stone, with thick walls and three stories high. To see a street roofed over some forty or fifty feet above the ground, with great rafters and occasional open spaces, has something of the fearful. It is a city of back entries. This cannot be a street. It must be a paved back passage of a house. But here and there are open spaces and gardens kept alive by artificial irrigation.

Donkeys, donkeys, everywhere, and camels! There are Joseph's brethren, ambling down the street, each riding his ass, and the asses bearing provender and corn; and there are the Midianites with their camels bearing spicery. . . .

This Cairo is a grand, ponderous, solemn old city. It is as far before the East India cities in romantic interest as they are before the Chinese. There is something great as well as old and quaint about it. And now, by moonlight, of this Monday morning, August 13th, I am traversing its great shadows, and threading my way, donkey-back, among its narrow streets, between its high, thick prison-looking walls, on my march out to Memphis, — every now and then in danger of treading on some sleeper; for in this dry, hot climate, they sleep out of doors all night. We pass by high walls of gardens and high walls of palaces, and, to every inquiry, my dragoman says the garden, the palace of Achmet Pacha, or Ibrahim Pacha's sons, or Said Pacha's daughter, or Suliman Pacha, or the harem of the Pacha. . . . At last we are in the open fields, and can see the stars in their last glimmer. . . .

To old Cairo, where we take a boat and cross the

Nile by sail. It is here and now a turbid and rapid river, but the all in all of Egypt! They drink the Nile, cook with the Nile, wash in the Nile, give the Nile to their cattle to drink, and where the Nile does not go they carry it, by canal and aqueducts.

Pass Roda Island in the Nile, where is the Nilometer, and the palace and harem of Said Pacha and one of Ibrahim Pacha's sons, and in the open country, in the gray of the morning, miles and miles off, we see the great pyramids. . . .

Stop under a grove of date-tree palms and get breakfast. This sounds very fine, but a grove of dates at early day gives as much shade as a grove of liberty-poles. . . .

It is now about eleven o'clock, and the sun on this sand plain in August intensely hot; and notwithstanding my double helmet and puggaree, I am relieved to reach the tombs of Serapion, where the sarcophagi of the bulls were kept, and to get under ground. Here we were, under ground, myself, three Arabs, and three donkeys, and here we rested. They spread my mat and lay themselves on the sand,—and we rested, with a lunch of meat and wine and water until four o'clock, when we explored the tombs. . . .

The afternoon sun is still hot, and the breeze from the desert still warm, when we issue from our subterranean cavern, and a ride of two hours (have I said we were on donkeys? the *sina qua non* of Egyptian life, and neither obstinate nor sure-footed) brings us to the Great Pyramids of Gizeh, the Pyramid of Cheops, and the Sphinx. All the way they loom before us, sharp, high and wide, looking about as large fifteen miles off as close by. . . .

The dreary look of all around the pyramids and Sphinx is first to be noted. The sands of the desert have blown over and submerged temples, palaces, tombs, — all but pyramids. Imagine a long northern snowstorm, of yellow snow, only rock-tops peering above, and the open channels and lagoons of the great river.

The Sphinx disappoints — being in a scooped-out hollow, and dwarfed by the pyramid. You have to stimulate your wonder by remembering that it is one block of stone, and was once a kind of face.

It is now sundown, and here, in this dreary, magnificent spot, I am to pass the night. My dragoman makes me up a bed of blankets and my mat on the hard stone forming the lower range of the pyramid, and with moon and stars bright overhead, in this clear, dry sky, with a congregation of a dozen Arabs, disputing and howling, and praying towards Mecca, kneeling on carpets, and as many donkeys eating out of bags, myself trying to look up and realize the place and the scene, I dropped asleep, having been up since four o'clock, and much of the time on the road. The great dispute was between my dragoman and a huge Arab, who insisted on letting himself to us as guard for the night, and I dropped off when it was at the highest. Once in the night I awoke. Stars and moon bright, — sky cloudless and the Arabs lying in the sand; but the pyramid recedes too fast for me to see the top, where I lie.

August 14. Tuesday. Dragoman calls me at four o'clock. Coffee and bread, and my three Arab guides take me inside the pyramid, entering a small door, up several ranges of stones, insignificant, — the door, I mean, — showing that the pyramids were never

built for use, and following low passages, often bending to the ground, visit the well-known and often-described recesses and chambers. Then, just as clear day dawned, began the ascent outside. It is not extremely difficult, and I reach the summit a few minutes before sunrise, and have the great gratification of seeing from the top of the highest pyramid the blood-red African sun rise over this vast expanse, — this expanse, now of sand and water, of scattered villages, the illimitable Libyan desert on the west, and glittering in the east the citadel of Cairo.

August 16. Thursday. Took train at 8.30 for Alexandria.

The delta of the Nile seems very fertile. So far as the fertilizing effect of the overflow goes, there seems to be abundant productiveness. For several miles the scene reminded me of the bottom-lands of the Connecticut, — trees, rich fields, — only the cuts and canals for irrigation, and the constant occurrence of wheels to raise water, were Egyptian. But lower down, towards Alexandria, sandy plains occur again. The common people live in mere cots, or pens of mud, while here and there are great houses of big men, usually of yellow stone, but sometimes plastered and painted blue and white. Now the country is perfectly flat, and there — that long, low, blue ridge is the Mediterranean, my first sight of the Mediterranean! and houses thicken, streets show themselves, and we are in Alexandria.

Took lodgings at the Hotel Abbot; where we sat at table, — Turk, Frank, Greek, Italian, I the only Anglo-Saxon.

August 18. Saturday. Nine A. M. took Austrian Lloyd's steamer Bombay for Trieste.

Now we are out on the blue Mediterranean, — my first experience of it, — and it is not long before the low shores of Africa are out of sight, and we are at sea. It is smooth and very pleasant, and a gentle breeze. In the afternoon the ladies say it is really cool, and they send below for shawls. One of us has the curiosity to look at the thermometer. It is 84° ! Such is the effect of India and the Red Sea on the blood.

August 20. Monday. The Peloponnesus! Made the southwest end of the Morea, and all day are coasting the Morea, close on board, and going between it and the islands. Here is Navarino Bay! The captain points out the place where the Turkish fleet lay at anchor, and where the allied squadrons came in.

How deeply interesting is the sight of Greece, — the Peloponnesus, — though it be of a part little known to fame! Yet it is Greece!

August 21. Tuesday. Pass between the main land of Albania and the islands of Zante, Cephalonia, Corfu, and at ten A. M. are at anchor in the beautiful harbor of Corfu. What a romantic and beautiful spot! . . .

We are ashore, amid Greek signs and Greek faces and Greek speech!

The country about is beautifully diversified with hill and dale, and all has a healthful, variegated, romantic air. How much of this is fancy? But who can resist it in the isles of Greece, amid olive trees and vineyards, and where the Greek of the world's poetry, eloquence, philosophy, and art is domesticated. We fancy, too, that the women have a *castey* look. See the low forehead, full temple, straight nose, and

chiselled lip! And the men, — how keen they look, and active! Certainly, they are neither a dull nor an oppressed people. They look independent and clever. Among these faces is a sprinkling of what must be Austrian, sunburnt, yellow complexion, large foreheads, and brown hair. The red coats of the English protectorate soldiery are the only signs of a present subjection, mild as it is, and the Venetian lion carved on the gateways tells of that of years gone by.

But our two and one half hours' leave is up, and we must take our feet from off the classic soil, to the sooty deck of the steamer, newly coaled and well stored with fruits and vegetables.

We are all on deck, and delighting ourselves with the views as we steam out of the harbor. What a place for yachting! What drives and walks! We turn the corner, and the castle, forts, palace, towers, and towering stone houses are hidden, and adieu to Corfu!

August 23. Thursday. The entrance to Trieste in sight early this morning, and at eight A. M. we are at anchor in the port, the slopes of the bills well dotted with pleasure-houses, villages and churches, and the close-built city before us. By nine o'clock I am in my room at my hotel and my sea-voyage ended.

I am in Europe! It is an exciting thought, and one calling for gratitude. I have been carried across the Pacific, through all the seas, and inland journeys and changes of climates, and heats and dangers of China and Japan, and of the eastern seas and British India and Egypt, without so much as a hair of my head injured. I am and have been in perfect health, and have apparently escaped every danger and every inconvenience of the hot climates in midsummer, and

am now on European soil. I feel almost as if my journey were ended, and these European customs seem so homelike, — no more Chinese, Hindoos or Arabs! . . .

Venice! Venice! Venice! All my resolutions broke down, and my principles gave way! I left Trieste with a virtuous resolve to spend one day only in Venice. But it was impossible. I can allow for anything a man may do in Venice. It took me as much by surprise as if I had never heard of it. I did not really believe that things were as I had read. People may be divided into two classes, those who have seen Venice and can believe in the actualizing of the imagination, and those who have not seen it, and may not so believe.

And how strange it all is! Here, in the midst of the banks and shoals of the Adriatic, not only off the land, but out of sight of hard ground, — where only coral insects would think of beginning, they have built a magnificent, sumptuous city, — a city of marble and gold and precious stones, of palaces, churches, monasteries, courts, arsenals, bridges, columns, and prisons, — where every stone had to be brought from a distant *terra firma*, and gardens, where every morsel of earth was imported; and there they led about the sea, in canals, as they wished for it, and excluded it, by breakwaters, where they did not desire it; and on the weakest foundations of mud and sand they built the heaviest and loftiest structures, and undertook to rule the Mediterranean world. The wonders of the place, the never-ceasing charm of canal and gondola, front-door steps washed by the tide and overlooking balconies, and noiseless motion of a city without wheel or shod hoof, so seized on me, that after giving all

Friday to sights, and finding them not half finished, I gave way and sacrificed another day, — which indeed involved a third, for that was Sunday, and I did not wish to travel all that day, as I must, if I did not stay over.

August 27. Monday. Took leave of Venice by early morning, going to the railroad station in a gondola, under the Bridge of Sighs, by the Rialto, and past the palaces on the Grand Canal, and adieu to the most interesting and incredible creation of men's hands in the form of town or city on the earth's surface!

Passed through Padua, Vicenza, Verona, Peschiera, Desenzano, Brescia, Bergamo and Treviglio, — “names that bear a perfume in the mention,” — and along the beautiful Lago di Garda, which looked, all the afternoon, as if it were lying there waiting to be sketched by Claude.

We find the usual delays for examination of passports and luggage and feeing of officials, and — did any *ever* see a polite German? — except as you may see a blossom on a grafted limb. Their language, by the side of the Italian, sounds Hyrcinian and hirsute. If I were an Italian, I would conspire to cut their throats over tubs, as Leonard did his hogs.

Reached Milan at ten o'clock P. M. In the dominions of Victor Emmanuel, regenerated Northern Italy; and ancient Milan, — the Milan of Attila and Charles V., of St. Ambrose, St. Augustine, and St. Charles Borromeo, of the Iron Crown of the Lombards! Hotel Della Villa. My window opens on a huge dome, at least it looks so against the stars, — the Church of St. Charles Borromeo. A warm bath and bed, and waked up at 9.30 A. M., *Tuesday, Au-*

gust 28th, to the beautiful light of another day, and to hear a party of English women at breakfast, making themselves wretched about beds and coffee and inns, in such a "glorious birth" as this country is to a newly arrived person of any reading or thought or feeling!

Milan lies in the great plain of Lombardy, which looks as green with grass and trees as the richest valleys. The charm of an Italian city is that it is *finished*. There are no vacant lots, no prepared streets unbuilt on, no pullings down and alterings. Centuries have done the work, and the present accepts it. From the top of the cathedral is a sea of brown roofs and white stone houses, avenues and patches of deep green, for gardens and public grounds, within the city, and a flat circumference of deep green extending to the distant hills. Not England is greener. . . .

At Fariolo, took diligence for Domo d'Ossola, where passed the night. The way was directly up the Alps, and I had an outside seat with the driver, and commanded the whole view. It was the height of harvest, and laborers were out in all the valleys and green spots, and the laborers were mostly women and girls, carrying heavy loads of grass and wheat on their backs, and often no hats or bonnets, and the sun very hot. The verdure is intense, as great as in England, in the valleys and slopes; and vines, fruit-trees, and cultivated grounds are everywhere. The mountains are tipped with perpetual snow, and snow and glaciers go far down their sides, and in great prairies across and between them. Nothing in America is to be compared with the Alps. All the mountains in New Hampshire might be taken from a

single range of the Alps and not missed. And, besides being double their height and more, the Alps have wild, broken, surprising outlines, — which our mountains have not. Then, in the midst of this prodigality of grandeur, there are the sweetest scenes of quiet industry and peaceful life.

August 30. Thursday. . . . This has been a glorious day — a day for a lifetime — a succession of wonders and delights. How the Himalayas or Andes compare with the Alps I know not, but it is certain they have not the presence of ruined castles, towers, and hospices, still used hospices and churches, villages, and vineyards, close in upon the snows. The constant presence of water is a great feature. Think of poor, dry, volcanic Mauna Loa, without a drop of water from summit to base!

August 31. Friday. Railroad from Bex to Villeneuve, on the banks of the Lake of Geneva, — Lake Lemane, — which we reached at night, and saw the moon shine over “pure, placid Lemane.” The road all day has been by the side of the rushing Rhone, and through the valley of the Rhone, — a stupendous valley, or chain of valleys, and everywhere the Rhone a torrent of clay-colored water. Everything is dwarfed and ordinary in comparison with the Alps and their peaks and vales and torrents. Europe is *the continent* after all.

September 1. Saturday. Steamer from Villeneuve to Geneva. This is the charm of charms. First the dull white, sullen walls of Chillon, foundations sunk in the lake, and then Vevey, Lausanne, Nyon, Coppet, etc., and the succession all the way to Geneva of castles, towers, villas, simple country-houses, churches, chapels, cities, towns, hamlets, washed by the lake, or

lying on its slopes, — and in the distance the towering Alps and Jura in its “misty shroud.” I should think that no small portion of the world had country-seats upon the Lake of Geneva. And now we approach the high walls of old Geneva. Here the narrow, rushing Rhone divides the city, bridged across by many bridges, but no longer of a clay cold, but of a beautiful light green as it hurries past the arches and along the walls. . . .

Saturday afternoon, I am sitting at the window of my chamber in the hotel, looking out upon the Rhone, the island with Rousseau’s statue, and the great bridges and opposite streets and towers of the cathedral. This may be called a stage in my progress round the world.

September 6. Thursday. At Cologne. . . . In the afternoon took the train for Antwerp. A beautiful journey this, — from Cologne to Aix la Chapelle (or, more strictly, Verviers), and thence it is Belgium. I am charmed with Belgium. Here is a sight that comes home, — cattle grazing in the fields under the trees, — cows, oxen, sheep, everywhere, and English hedges and shrubbery, and thick trees and groves, and such nice houses, — all so neat and tasteful, — a good medium between the Dutch and French. . . .

Reached Antwerp at ten P. M.

September 7. Took leave of this clean, orderly, wealthy, respectable city, with regret, and took steamer, at one P. M., for London, and took my latest step on the continent of Europe. Passage down the Scheldt by the neatest little villages, with red roofs, and by night were out at sea, on the German Ocean. So natural is it now to me to be on the deck of a ship! I am at home at once.

September 8. Saturday. Here I am, in dear old London again! I sit down to read my letters from home, which I got at the Barings', not having heard from home, a word, for six months; and when I found all well, — all living, — it seemed that my cup of blessing was full. Here, in England, in perfectly good health, in vigor of health, — with no loss even of an umbrella from my luggage, — escaped all dangers of sea and land, of violence and sickness, — in all climates and countries; if I am not grateful, it is because gratitude is not in me.

How pleasant are the old London sights! And the parks, Hyde, Green, St. James', are more beautiful, after all I have seen elsewhere, than my recollection held them.

September 9. Sunday. What could I do but go to the Abbey, to the early communion service, at eight o'clock? How still! How solemn! The high roof, the dim, russet-colored stone, — so much more agreeable to the eye than the white and red of most of the continental churches, — and the still statues of the great dead, — statesmen, orators, soldiers, poets, scholars. . . .

September 11. At five P. M. took train for York, at King's Cross station. . . . The long rains have kept everything green, and now the clear, fine weather, which has relieved the mind of the whole kingdom from fear of an entire loss of harvest, seems to take everybody out of doors. The number of boys playing cricket in the green fields as we hurry by (for it is vacation, now, at the schools) would surprise one. They seemed to have been arranged for a show, and the girls are walking about and looking on, and women sitting under the trees, sewing or

reading or tending babies ; and all the working-people are at the harvest, cutting, gathering, binding or "carrying." After all the world seen, — there is no land like England for a home !

September 13. Thursday. . . . At noon took the train for Lincoln, which I reached at a little after one P. M., and, after lunch, walked out to the cathedral.

Macaulay was right. He told me, in 1856, to see Lincoln. The question was to which cathedrals I should go, having then seen none but St. Paul's and the Abbey. Some said Salisbury ; some, York ; and some, Canterbury, etc., etc. ; but Macaulay said, "Lincoln, Lincoln. See Lincoln. That is the best of all." I attributed this to some accidental prejudice, and did not go ; but I sympathize with him. If I must choose among all, taking inside and outside, form and color, beauty, size and interest, — all into account, — give me Lincoln.

September 15. Saturday. Took steamer Persia for New York, which got under way at nine o'clock. The old view of the fortress-like docks, the low shores of Lancashire, and the high coast of Cheshire and Wales, the light at Holyhead, and then the open sea.

September 27. Thursday. This day opens in America — home. Been absent 433 days, of which spent about 233 on the water and 200 on land. New York completes the circumnavigation of the globe !

CHAPTER V.

THE WAR PERIOD.

ON Saturday, the 29th of September, 1860, Mr. Longfellow, after referring in his diary to an ineffectual effort on his part to induce William Cullen Bryant to dine with the Saturday Club, added: "We had Richard Dana (the younger) just returned from a voyage round the world, with very pleasant talk about China and Japan, amusing and instructing us a good deal." Dana returned wholly restored in health, and both ready and anxious to get back to his office, there to gather up the scattered remnants of his practice, and at forty-five to begin professional life again. He had been trying the case of *Seccomb v. The Provincial Insurance Co.* when suddenly taken ill sixteen months before, and that case at least, if no others, had since been slumbering on the docket patiently awaiting his return.

He got back to America just as the momentous presidential campaign of 1860 was drawing to its close, and too late to take any active part in it, though he did preside over one Republican meeting held in Cambridge to ratify the renomination of Anson Burlingame for member of Congress. The contest in the Fifth Massachusetts District excited intense interest that year, owing to the spirited attitude which Mr. Burlingame had assumed towards Preston S. Brooks of South Carolina after the assault of the latter on Charles Sumner in the Senate chamber, and the result was very doubtful; for Mr. Burlingame had opposed to him William Appleton, a wealthy manufacturer of high character and great business reputation, upon whom all the elements of

opposition to Republican success had concentrated. The Fifth was the district in which Mr. Dana lived, and his speech at the meeting in Cambridge on the 3d of November was sufficiently happy and forcible to call forth the following letter from Josiah Quincy, then an old man in his eighty-ninth year, but as deeply interested as any youth of nineteen in the results of the election, particularly that in Burlingame's district, where he himself also was a voter. The letter, though the characters in which it was written were tremulous with age, was in every word and line characteristic of the writer. It must have been singularly acceptable to Dana : —

MY DEAR SIR, — I cannot refrain from expressing my gratification at finding you again in the political field, with armor bright, headpiece strong, sword sharp, its keen edge separating muscle, sinew and bone, with a severity which would have proved personal were it not for the masterly dexterity with which you cut sheer, exciting the pain without rousing the irritable. But to leave figure and come to fact, I thank you for your Cambridge speech. It was just the thing. Exact as to Burlingame, true to the Constitution, dragging into daylight the party with “a long name and a short creed,” and placing Appleton aloft, lifelike, with due honors and prospective defeat. If anything can save the district it will be your effort.

I rejoice to see you again among us, apparently with strength renewed, like Antæus, from the touch of earth. If the papers tell truth, you have escaped perils of land and perils by sea, by shipwrecking and bridgebreaking, by waters on the earth and by fires under it. I rejoice, I congratulate, I long to take you by the hand and hear from yourself some of your

adventures ; and should call on you, but *opposit natura*, my locomotive powers fail. Old age is doing its proper work, gently, kindly, and in a motherly way. I have nothing to complain of except my inability to pay the respects I owe to my friends, which to do I must be indebted to them for the opportunity. A hint I hope you will take, and, when other engagements permit, that you will favor me with a sight and a shake of hand in No. 5 Park Street, at any hour your convenience permits.

Truly and respectfully yours,

JOSIAH QUINCY.

BOSTON, 5 Nov., 1860.

The political party to which Dana belonged was now to take control of the government. Then followed the long, anxious winter which preceded the outbreak of hostilities in April, 1861, — that winter of alternate hopes and fears, through the slowly creeping weeks and months of which the country was gradually educating itself to the conviction that a civil war was both inevitable and imminent. No American then old enough to participate in the course of events will ever forget that winter, — a lurid, troubled light hangs over it in memory ; and so great was the tension that when, at last, the inevitable occurred and the war cloud burst, the sense of relief throughout the country was universal. At least the period of sickening suspense had come to an end.

Between the election in November and the inauguration in March the one question of practical politics before the country was the transfer of the machinery of the government from the hands, either imbecile or untrustworthy, in which it then was to the hands of the new men chosen to take possession of it. It was the most critical period through which the government of the United States ever was called upon to pass, — a crisis protracted through

months. Looking back on it now, after the lapse of nearly thirty years, it is curious to see how earnestly all played their parts and how essential to the great catastrophe all those parts were. The extremists on both sides were urging the country to immediate blows, regardless of consequences; and by so doing they were educating it to the necessary point when the hour should come. Had the Southern extremists prevailed, and the Southern blood been fired by an assault on Fort Sumter in January, the slave States would probably have been swept into a general insurrection while Buchanan was still President, with Floyd as his secretary of war. Had this occurred, it is difficult now to see how the government could have been preserved. The Southern extremists, therefore, when they urged immediate action, were, from the Southern point of view, clearly right. Every day then lost was a mistake; and, as the result proved, an irreparable mistake. On the other hand, had the extremists of the North prevailed in their demand for immediate action, they would in the most effective way possible have played the game of their opponents. Fortunately they did not prevail; but their exhortations to action and denunciations of every attempt at a compromise, educated the country to the fighting point. They did their work in this respect none the less thoroughly because they did it without design. Between these two bodies of extremists was the great mass of the country on either side, — so to speak the undistributed middle, — patriotic, wedded to the idea of peace, dreading war and above all civil war, devoted to the Union, somewhat devoid of convictions, dreading and despising all fanatics, and strongly inclined to measures of compromise. A large portion of the slave-holding States was still undecided; clinging to the Union, it was yet possible that these doubtful States might at any moment be stampeded out of it. Of course under the circumstances, as was sufficiently apparent then and is obvious now, no lasting compromise was possible; nevertheless, on

the part of the North, it was highly desirable that every possible form of compromise should be discussed, and discussed at great length, if only to gain time. It was unquestionably under such conditions as these the part of the statesman as well as of the shrewd political manager, no matter with which side of the struggle he sympathized, to keep his eyes steadily fixed on that fourth day of March, upon which the machinery of government was to be transferred from James Buchanan to Abraham Lincoln; and, if he was a secessionist, he would strain every nerve to precipitate a conflict before that day arrived, while, if he was a Union man, he would exert himself to the utmost to tide peacefully over the intervening time. After it, the deluge — if necessary.

It is difficult now, even for those who participated in it, to realize the excitement and exasperation of those anxious days. Serenity, much more silence, was impossible. The shadow of the impending conflict was oppressive and all-prevailing. Though he had come home from the East and Europe too late to get infected with the election excitement, the greater excitement which followed the election soon fastened itself on Dana. Two of his closest personal friends and political associates, Mr. Sumner and Mr. C. F. Adams, were in Congress, — the former in the Senate and the latter closing the second year of his only term of service in the House of Representatives. They were pursuing different lines of policy. Sumner was in the front rank of the extremists. Wholly failing to realize the inevitable trend of events, he was haunted by visions of compromise, the mere mention of which he vehemently declared demoralized and discouraged all loyal hearts, whether North or South. Among the letters received by Dana during that period I find one which I wrote him from Washington, dated February 28th, in which is an account of a conversation I had then recently had with Sumner, a conversation I still distinctly remember. "I talked with him," I wrote in this

letter, "half an hour, and he orated and declaimed, — laid down the law and proclaimed the gospel, — in the most extraordinary manner. He declared that the only question of real, practical statesmanship involved in the struggle had not been touched, and that was the treatment of the seceding States. I suggested that secession was revolution, and nothing new, and to be treated as any other revolution, and not in some new and ingenious method as yet untold in history. With his usual strict logical force he reiterated his previous assertion, and diverged into an attack on Seward. He declared that Seward could not rise to the emergency; that he was only a politician and looked on the question as such, whereas a statesman was needed for its solution; that 'throughout the session he had been demented, and the film had not yet fallen from his eyes.' He described an interview in which 'I pleaded with him, I besought him by his principles of the past, his credit in the present, his good name in the future, by all that was sacred between us, to strike out' the passage in his speech in which he indicated how far he was willing to go in support of Andrew Johnson and our Union friends of the South. He then proceeded to glowingly describe how clearly he saw his path before him. 'It is as plain as midday. I am as sure of it as fate, — a glorious, eternal victory awaits us. We have but to stand firmly by our principles; to yield nothing; our path is so simple, so easy. The border States beseech us to no more debauch them by this talk of concession, but to stand firmly by the Constitution,' etc., etc.

While Sumner was daily declaiming in this fervid and impetuous manner in the ante-rooms of the Senate chamber, Dana's other friend, Mr. Adams, was in the hall and committee rooms of the House of Representatives acting in close coöperation with Mr. Seward, and endeavoring to use up time until the transfer of the government should be effected. He was not wholly without hopes that some basis of compromise might be reached which would divide the

South while sacrificing no essential point in the anti-slavery code of principles ; but, whether this were or were not possible, he held that it was absolutely essential to protract the discussion until the inauguration of Lincoln had put the control of the government both *de facto* and *de jure* in the hands of Union men.

Dana in the course of the winter wrote to Mr. Adams the following letter, among others, which sufficiently defines his own position : —

BOSTON, *December 26, 1860.*

MY DEAR SIR, — I am extremely obliged to you for the time you have given to me, and find in your letter a more satisfactory statement of the issues and duties than I have anywhere seen.

I will stand by you on this ground, — that there shall be no changes in the Constitution in the direction of the support of slavery, either politically or territorially, even at the peril of disruption.

As to legislative compromises, I suppose no one cares for them except for immediate political effect, and as means of building up or throwing down parties and power. I agree that our course should be to refuse them altogether. If anything ought to be done, let it be done as matter of duty. If we think not, let votes determine the result, without our complicity in it.

My only solicitude is to do my duty in my own sphere, which is Massachusetts. We are pressed with the request to repeal our Personal Liberty Bills as a mode of strengthening the hands of the loyal people of the border States, as a conciliation without compromise, and as preventing distraction of our friends, and removing a rallying cry from our enemies, and as a kind of clearing of the decks for action on the

great issues, etc. These requests come from Republicans in the Middle and Western States.

Our course is clear, so far, — to consider the subject, refer to a committee, etc. But I wish to have an opinion and a clear course for conversation, if not for public speech.

It seems to me the question is, — what test is to be applied to the bills? Is it the test of right and wrong, or some other test? If the former, it is easy. If any are unconstitutional, they should be repealed. If any are constitutional and also useful as *bonâ fide* safeguards against the abuse of the Fugitive Slave Act of 1850, they should stand. If any are technically constitutional, but not needed as safeguards against abuse, and only effective to obstruct the rendition of actual slaves to actual masters and to make it odious, — those, on question of mere right, should be repealed. But if the test is to be a yielding to threats, they will not be. If the test is to be a conciliation, at the request of leading Republicans elsewhere, connected with an actual or professed, or even an attempted change of the law of 1850, it can be done. In this view, it seems to me not necessary for a citizen like me to act or speak now. The governor's address, the action of the Committee of Thirty-three on the Fugitive Slave Law and Personal Liberty Bills and other events which any hour may bring forth, will soon present the subject in the form of a distinct issue, with intelligible tests, and then a private citizen may act or speak usefully. In this view I have declined speaking at Worcester this week or next.

In the general, I shall talk or speak after this fashion: — If the Union can be preserved with an

unmutilated Constitution, unclogged by new compromises, I am willing to support a reasonable Fugitive Slave Law; for I regard the preservation of such a Union as a very high moral duty, which we owe to peace, to civilization, to the development of a continent, and to the founding of free States, justifying the most painful legal duty of rendering back a fugitive slave. This has always been my opinion. But if the only terms for preserving the Union are some substantial concession, political or territorial, to the slave-power, we will agree to no such terms, and will justify ourselves to the world, now and hereafter, in history, and to those for whom we act who are voiceless, and, I reverently believe, to the Disposer of all events.

The resignation of his seat in Congress by Mr. Appleton, because of declining health, made during the autumn of 1861 a vacancy in the representation of the Fifth District. In the distribution of federal patronage under the new administration, Mr. Burlingame had been appointed minister to Austria; and, when the Austrian government intimated that the appointment was not acceptable on account of certain action of Mr. Burlingame in Congress bearing on the question of a free Italy, he had been transferred to China. Mr. Burlingame was, therefore, no longer in the political field, and Mr. Dana's name was naturally mentioned in connection with the vacancy.

The nomination finally went to Samuel Hooper, who thereafter by a series of reëlections represented the district until his death in the year 1875; nor is there any good reason to suppose that Dana could have secured it in 1861 had he come forward as a candidate. Nevertheless he then did consider the question of entering on Congressional life, and, as the result of much reflection, decided that he could not afford to do so. I remember at this time meeting him in the

street one day and going with him to lunch at some restaurant, when he discussed the question pro and con after his fashion. I urged him to allow no small considerations to stand in his way, but, if he could get the nomination, to take it and the chances it offered. My line of argument on this occasion I have already alluded to; his, as I recall it, was based wholly on domestic and money considerations.

Some months before he had accepted the position of United States attorney for the district of Massachusetts, for which he had naturally been designated by his professional standing and political record; or, as Sumner wrote to him from Washington on the 14th of April, "in conversing with the President on our Massachusetts cases, I said that 'as to Mr. Dana, he was already nominated by general public opinion, and all that remains now is to register it.' I then passed on to the next case. Of course you will accept. But at all events we have had the honor of enrolling your name in our Republican lists, and I am proud of it." The nomination was sent to the Senate by President Lincoln on the 12th of April, and Mr. Dana entered upon the duties of the office on the 26th of the same month. Ordinarily the position of United States District Attorney is not a considerable one, either as respects dignity or emolument. The holder of it is indeed little more than a prosecuting officer, drawing a salary of some \$6,000 a year, and so occupied with the routine of his office as to be cut off from all professional work outside of it. It is an office which no leading barrister can afford to hold. Dana took it and held it at a time, and the only time, when it was an office of great importance; and, as will presently be seen, he gave its importance to it.

Dana held the position of district attorney all through the war period and until the work of reconstructing the conquered South had been fully entered upon. His views and feelings during those troubled years are best though very insufficiently set forth in his own letters written at the mo-

ment. He kept no diary or other record of passing events and his participation in them.

In reading these letters it is obvious they were never written for publication, or with any thought of future historical use. In them opinions are often expressed, both of public men and of the course of events which the result did not justify. None the less, so far as they go, these letters are contemporaneous evidence of what was said and thought, and of what took place during a momentous struggle, and as such, so far as they relate to public men and public events, they should not be suppressed, even though he who wrote them might, could he now be consulted, forbid their use. Side lights of this sort unconsciously thrown at the moment by actors in great events, or even by on-lookers, often supply much that is by no means of the least value in the mass of material from which history is evolved; and the lapse of years invariably converts private papers into public property.

Mr. Adams was now minister to England and living in London, having left America early in May. To him Mr. Dana wrote as follows, the other portions of his letter being devoted to questions connected with the British proclamation of neutrality, then recently issued:—

[1861. *June 4.*] Sumner has spent ten days at Washington, and comes back as full of denunciations of Mr. Seward as ever. He gave me some anxiety, as I listened to him, lest he was in a heated state of brain. He cannot talk five minutes without bringing in Mr. Seward, and always in bitter terms of denunciation. I mention this to you because I have reason to believe that his correspondence with England (which is large, and in influential quarters) and his conversations with the foreign diplomats at Washington are in the same style. His mission is to expose and denounce Mr. Seward, and into that mis-

sion he puts all his usual intellectual and moral energy. He represents him as distrusted and overruled in the Cabinet, and disliked and distrusted by the diplomats, and as pursuing a course of correspondence, language, and manner calculated to bring England and France to coldness, if not to open rupture; and at home as answerable for all our unpreparedness and false positions in the past, and as ready to sell us all out in the future. His conversation is in no sense confidential, for it is the same all over town, still I should not report it were it not that it may be important to you officially.

He says Scott told him the war would be over in one year, and Butler said at the second frost. . . .

Five months later, he wrote again to Mr. Adams: —

[1861. *November 25*, Boston.] I hope you now feel better about the navy. Wilkes has done a noble thing, and done it well. It has, with all its elements of poetic justice, struck a chord in the public heart that only a great victory could have struck.

The Port Royal affair was also well done. There appears to be a healthier feeling everywhere since these two events. . . .

Sumner's speech is a magnificent exposition (I mean his late speech, since October 1) of the sin and horrors of slavery and its ill effect on all our politics, causing and sustaining this rebellion, etc., etc. But, so far as a policy, measures, a principle of action is concerned, it is vague. He seems to assume that if our twenty millions can be made to hate slaveholders and slavery badly enough, and to believe that they can hit 'em hard, all the rest will take care of itself. If the steam is got up to the highest, and the boat

headed into them, all else is immaterial. I cannot agree to that. Under the war power we can do what is (1) necessary for the purposes of the war, (2) justified by humanity, good sense and the consent of Christendom. I know no other limits. But S. makes the abolition of slavery by force the moral justification and end of the war. The war is a means. He preaches a holy crusade. But we cannot justify *war on the domestic institutions of the Southern States* as an end and object. We must not propagate even Christianity by the sword. The war must be to sustain the Constitution, and prevent the establishment of an independent nation in our limits; or, if we admit the Union and Constitution to be at an end, as matter of law and of fact, then we can justify it only on the ground of an imperial and paramount necessity to establish one government over the old limits, wholly, or so far as we choose, taking the responsibility for the negroes on ourselves. The difficulty with S. is this:— He has had great difficulty in justifying a support of the Constitution with its slave clauses. He has great difficulty in justifying *war* on any terms. But to justify war in order to sustain a constitution that itself needs justification is too much for him. He relieves his conscience by proclaiming this to be a holy crusade to abolish slavery. . . .

As will be inferred from the first paragraph in the foregoing extract, Mr. Dana, like most of his countrymen at home, was for the moment carried away in the excitement over Commodore Wilkes's high-handed proceeding in the Mason-Slidell, or "Trent" affair. In fact, so carried away was he that he sent a communication to the Boston "Daily Advertiser," laying down the law in the case, as he under-

stood it, and fully justifying the action of the commander of the San Jacinto. Fortunately, in this respect more discreet than many other prominent public characters of the time, both executive and judicial, including the Secretary of the Navy and the Chief Justice of Massachusetts, he did not publicly appear as responsible for his utterances. A copy of this communication he even sent to Mr. Adams. It closed with the following words, curiously illustrative of the mental condition into which some of the coolest heads in America had then worked themselves: "We rather look to see Mr. Seward or Mr. Adams call the immediate attention of her majesty's government to this violation of neutrality [the carrying of Messrs. Mason and Slidell on a British mail steamer between neutral ports] than to see Lord Lyons or Earl Russell addressing our government on the subject."

Naturally, Mr. Adams failed to take this highly patriotic, if somewhat roseate, legal view of Commodore Wilkes's proceeding, and presently wrote Mr. Dana quite forcibly to that effect. The excitement over the Wilkes blunder had meanwhile subsided, and in a subsequent letter Mr. Dana made the following handsome and most characteristic acknowledgment: —

[1862. *Sunday, January 19, Cambridge*] The day I received your letter I left for Washington to attend the Supreme Court, and returned last night. I seize the first opportunity to write you, because I owe it to you to make the earliest acknowledgment that you were right and I was wrong in the matter of the Trent. Mr. Seward is not only right, but sublime. It was a little too sublimated, dephlegmated and defecated for common mortals, but I bow to it as to a superior intelligence. You saw the question as a statesman, I only as a lawyer.

I heard Sumner's speech. It is the best thing for his popularity and reputation that he has done. It

was the first opportunity he has had to speak without offending half the nation. It was desirable to have not only America but Europe see that the surrender was on principle, and not from fear, and Sumner's speech will do a great deal in that direction. I do not agree to his *law*, or rather, perhaps, we do not mean the same thing by the word *law*. He cites treaties, but they are mostly made to modify or clear up the law. He cites diplomatic correspondence, which often indicates the efforts of one nation to obtain a declaration of doubtful law, or to effect changes in it, or to make a new rule for new cases, quite as much as it indicates a deliberate, impartial judgment of what the law is. He ignores adjudged cases, and cites a few extracts from commentators and diplomatists which are not all logically applicable. The Anglo-Saxon mind defers to adjudged cases, as the best evidence of preëxisting law. Not so the mind of Continental Europe; and the latter is Sumner's storehouse. I told him I preferred Mr. Seward's *law* to his, because I am a sailor and a fighter, while his object was to keep as near as he can to the "True Glory of Nations," and have no war, if possible, and, if we must fight, to use blank cartridges as much as we can. On the sea, war is stripped of all its horrors, — to non-combatants, women, children, homes, graves, churches, fields, the sanctuaries of life, the basket and the store, the wounded and the dying. It touches only those men, enlisted combatants, who go down to the sea to fight; and with them it is seldom, and soon over. To all others it is a *mere money question*, of loss of property which has been intentionally and knowingly subjected to a war risk, for the sake of profit. I believe that

the most mild and humane form of war is the coercion of your enemy by material distress. I believe in your right to drive him off the highway, to keep him to his own soil and freehold, and to test the flag, the papers and the conduct of all neutrals. Sumner's happy vagueness and felicitous, warm, rose-colored haze enable him to talk peace where there is and can be no peace, and prophesy perpetual calm weather on the ocean. . . .

The following is an extract from a letter written nine months later to a member of his family : —

[1862. *October 1.*] The Proclamation of Emancipation and the lead of Sumner, Andrew, Greeley, etc., all sounds very finely. It is good for platforms and rhetoricians, but I fear it is not *statesmanship*. "C'est magnifique, mais ce n'est pas la guerre," as the French general said of Balaklava. It *may* be right, and *may* be successful, and it *has been* done. Those are reasons enough for not uttering in public even misgivings about it. But I cannot give this course a hearty, intelligent support. But I can support the President. I fear it is to be a *dead failure*. Unless we meet with decisive success before that Proclamation takes effect, the war is over, the slaves are not free, and the managers of the war, from the President down (I mean the civilians), are doomed to the wall. The Proclamation is not what your friends suppose it to be. It does not interfere with slavery in the loyal States. It only threatens to abolish it in the States that continue disloyal, — that is to say, in the States which we cannot conquer, and in which we cannot emancipate one slave. It is, Slavery where we can emancipate, and freedom where we cannot.

I hope it will turn out right, for it is done. But I fear. When the *noise* is over, I fear the majority will think as I do.¹

Sixteen months later, after another official visit to Washington, he again wrote as follows to Mr. Adams:—

[1863. *March* 9.] As to the politics of Washington, the most striking thing is the absence of personal loyalty to the President. It does not exist. He has no admirers, no enthusiastic supporters, none to bet on his head. If a Republican convention were to be held to-morrow, he would not get the vote of a State. He does not act or talk or feel like the ruler of a great empire in a great crisis. This is felt by all, and has got down through all the layers of society. It has a disastrous effect on all departments and classes of officials, as well as on the public. He seems to me to be fonder of details than of principles, of tithing the mint, anise and cummin of patronage, and personal questions, than of the weightier matters of empire. He likes rather to talk and tell stories with all sorts of persons who come to him for all sorts of purposes than to give his mind to the noble and manly duties of his great post. It is not difficult to detect that this is the feeling of his cabinet. He has a kind of shrewdness and common sense, mother wit, and slipshod, low levelled honesty, that made him a

¹ Mr. Dana afterwards saw no cause to change the views here expressed. Indeed, one of the last things he ever wrote for publication was a brief article in the *North American Review* (August, 1880, p. 128) arguing the nullity of the Emancipation Proclamation. He again insisted on looking at the great question "only as a lawyer," persistently ignoring the fact that by the proclamation of Lincoln, as commander-in-chief of the army and navy, the country stood legally as well as morally committed to a line of policy which involved vast consequences.

good western jury lawyer. But he is an unutterable calamity to us where he is. Only the army can save us. Congress is not a council of state. It is a mere district representation of men of district reputations. It has passed some good laws to enable the President to do the work, but the nation does not look up to it for counsel or lead. Stanton assured me that Charleston is to be taken immediately. It is to be done by the ironclads. We have no troops beyond enough to hold it after capture. It is to be the great test of boats against ports. I confess I have my fears. Then, he says, Vicksburg is to fall, and we are to have the entire Mississippi, and so cut off the progress of slavery and its supplies. Chase says we must fight them from below, and not crowd them down from the North. Stanton has come to believe in mud at last, since Burnside and Hooker have both succumbed to it.

Chase looks and acts as if he meant to be the next President. As for Sumner, I called on him and left my card the day I arrived, and heard nothing from him for the twenty days I was there, except meeting him once by accident for a few minutes at the house of a friend. He was constrained, though it would not be apparent to others. No word has passed between us; but he considers me as unloyal to him for having questioned the plan and policy of his friends.

Is it or not a defect in our system, the want of personal responsibility? There is no one responsible for the legislation of Congress. It is such as the machine grinds out. This President has no cabinet, in the proper sense. They do not act as a unit, and carry their united weight for their measures. On the contrary, I found them freely disclaiming respon-

sibility for leading measures of the government, and even denouncing them. This average, irresponsible result may do well where you wish to get the average wish or opinion of constituents; but in administration of affairs of state I think more of the *personnel* than I used to.

Few of those even most familiar with the history of the Civil War knew anything of the important legal episodes connected with it. Much has been said and written of the gathering of armies, of the fitting out of fleets, of the blockade of the rebel ports, and of the political and diplomatic discussions which absorbed the time and energies of the statesmen and diplomats of that day; but out of these grew a class of questions, the decision of which by the courts of law had a most important bearing on military operations. The issue of President Lincoln's proclamations of April 19 and 27, 1861, and, in pursuance thereof, the blockade of the Southern ports and the capture on the high seas of ships carrying contraband goods, or of ships owned by parties residing in the States in rebellion, implying, of course, proceedings in the prize courts for the condemnation of such captured vessels, raised in those courts a class of questions that involved the authority of the government to suppress the rebellion. This was the momentous issue presented in the cause known as "The Prize Cases," which was decided by the Supreme Court of the United States at its December term, 1862.¹ Mr. Dana thus described it in a letter to Mr. Adams written immediately upon his return home after making his argument before the full bench at Washington: —

[1863. *March* 9, Boston.] These causes present our Constitution in a new and peculiar light. In all States but ours, now existing or that have ever existed, the function of the judiciary is to interpret the acts of the government. In ours, it is to decide upon

¹ 2 Black, 635.

their legality. The government is carrying on a war. It is exerting all the powers of war. Yet the claimants of the captured vessels not only seek to save their vessels by denying that they are liable to capture, but deny the right of the government to exercise war powers, — deny that this can be, in point of law, a war. So the judiciary is actually, after a war of twenty-three months' duration, to decide whether the government has the legal capacity to exert these war powers. This is the result of a written Constitution, as a supreme law, under which there is no sovereign power, but only coördinate departments.

Contemplate, my dear sir, the possibility of a Supreme Court deciding that this blockade is illegal! What a position it would put us in before the world whose commerce we have been illegally prohibiting, whom we have unlawfully subjected to a cotton famine and domestic dangers and distress for two years! It would end the war, and where it would leave us with neutral powers it is fearful to contemplate! Yet such an event is legally possible, — I do not think it probable, hardly possible, in fact. But last year I think there was danger of such a result, when the blockade was new, and before the three new judges were appointed. The bare contemplation of such a possibility makes us pause in our boastful assertion that our written Constitution is clearly the best adapted to all exigencies, the last, best gift to man.

The three new judges here referred to were Davis, Swayne and Miller, all appointed by President Lincoln in October, 1862. Before they took their seats, the Supreme Court was composed of the Chief Justice, Taney, and of the five associate justices Wayne, Catron, Nelson, Grier

and Clifford, all Democrats, and three of them appointed from slaveholding States. What made the situation more grave was the fact that the Chief Justice had already, from his circuit bench, challenged the legality of some of President Lincoln's most important and essential acts.

In the months of May and June of 1861 a number of vessels had been captured by our naval cruisers and brought in to New York, Boston and Philadelphia for condemnation by the United States courts of those cities as prizes of war. Most of these vessels had been condemned, either as blockade-runners, illicit traders in contraband goods, or as the property of persons residing in the rebel States. Appeals were taken to the Supreme Court, and, at the beginning of the December term, 1862, Attorney-general Bates decided to ask the court to group and advance these cases *en bloc*, for argument and decision without awaiting the slow progress of the docket in its regular order. The court granted this motion, and at that term all of the cases then pending were argued.

The appellants had retained an array of eminent counsel to contest the judgments of the lower courts. The Attorney-general, realizing that the administration was on trial at the bar of the judicial department of the government, called to his aid the ablest lawyers of the country. At the head of these was William M. Evarts.

Among the appealed cases was that of the *Amy Warwick*, a vessel captured and brought into the port of Boston as a prize. She was condemned by the district court there on the ground that her owners were residents of a State in rebellion. Mr. Dana had officially conducted the case for the government, and the Attorney-general invited him to follow it into the Supreme Court. Both by training at the bar and before the mast, no less than by the natural turn of his thought and habit of his mind, Mr. Dana was better qualified to present the case on the side of the government, as, in view of all the circumstances, it ought to be

presented, than any other lawyer in America. It was a great issue before a great tribunal.

Of the argument Mr. Dana then made, one who was present, writing after "the lapse of more than a quarter of a century had dimmed his recollection of the details," has recently given the following account:—

"Mr. Dana opened the argument for the government, confining himself to the single question of enemy property, the question decided by Judge Sprague in the *Amy Warwick*. There are but few now living who heard that argument, for all of the judges but one and all of the counsel but two or three are gone; but those who are left can easily recall the glow of admiration and delight with which they listened to that luminous and exquisite presentation of the status which armed the Executive with power to use the methods and processes of war to suppress the great rebellion. Dry legal questions were lifted into the higher region of international discussion, and the philosophy of the barbaric right of capture of private property at sea was for the first time in the hearing of most of the judges then on the bench applied to the pending situation with a power of reasoning and a wealth of illustration and a grace and felicity of style that swept all before them. After Mr. Dana had closed his argument, I happened to encounter Judge Grier, who had retired for a moment to the corridor in the rear of the bench, and whose clear judicial mind and finely cultivated literary taste had keenly enjoyed the speech, and, in a burst of unjudicial enthusiasm, he said to me, 'Well, your little "*Two Years Before the Mast*" has settled that question; there is nothing more to say about it!'

"In the opinion which that eminent justice afterwards delivered as the organ of the court, affirming at all points the positions of the government in this great controversy, and giving the highest legal sanction to President Lincoln's acts, he reaffirmed his impulsive compliments to Mr. Dana's argument."

The argument in the "*Prize Cases*" was not only the

great forensic legal effort of Dana's life, but it was unquestionably a great argument, — one worthy of the issue and of the tribunal. No reference to it by Dana himself can now be found except those contained in the following brief notes addressed at the time to Mr. Lothrop,¹ his assistant in Boston, and in the letter, already quoted from, written to Mr. Adams immediately after his return from Washington. To Mr. Lothrop he wrote as follows, curiously confirming the recollections just given, as to the impression made by the argument on Judge Grier: —

[1863. *February* 18, Washington.] I have argued the Amy Warwick, and Bangs returns this morning.

I have every reason to be satisfied with my argument and its results. The compliments I have received from the judges and audience and counsel are quite too flattering to be put on paper. They seem to think the philosophy of the law of prize has been developed for the first time in its bearing on the present question.

[*February* 23.] . . . I have won Judge Grier's heart. He pats me on the shoulder and says I have cleared up all his doubts, and that it is the best argument he has heard for five years, etc. The Attorney-general seems quite overcome with his emotions on the subject, and cannot say enough. Seward is flattering, and others.

¹ While dealing with this period of Mr. Dana's life, I wrote to Mr. Lothrop asking for such information or assistance bearing upon it as it might be in his power to give me. He was then travelling in Europe, and his reply came too late for use in the preparation of this chapter, then already in the proof-sheets. But, besides throwing much light, — from one long and closely associated with him, — on Mr. Dana's character and methods of work, the letter has in other respects seemed to me too valuable and interesting to be lost. I have, therefore, printed it in full in the Appendix to this volume. The statement in it of the public issues involved in the "Prize Cases" is much clearer than that in the text.

As for the country, I see no hope but in the army. Victory alone can help us. The lack of respect for the President, in all parties, is unconcealed.

The following letter, written more than a year later to a member of his family, contains an interesting pen-and-ink sketch from life: —

[1864. *April 21*, Washington, Willard's.] Arrived here at the usual hour last night, and everything seemed as natural as life. The people were eating at the tables just as we left them, and as if it were the next meal to the one we last took here, and the black waiters rushing about, the clatter, the crowd and the same classes of persons.

Coming out of tea-room met Senator Harris, with his sympathetic eyes. Went to the office to inquire for my luggage, when a short, round-shouldered man, in a very tarnished major-general's uniform came up, and asked about his card for General Dana, which led me to look at him. There was nothing marked in his appearance. He had no gait, no *station*, no manner, rough, light-brown whiskers, a blue eye, and rather a scrubby look withal. A crowd formed round him, men looked, stared at him, as if they were taking his likeness, and two generals were introduced. Still, I could not get his name. It was not Hooker. Who could it be? He had a cigar in his mouth, and rather the look of a man who did, or once did, take a little too much to drink. I inquired of the bookkeeper. "That is General Grant." I joined the starers. I saw that the ordinary, scrubby-looking man, with a slightly seedy look, as if he was out of office and on half-pay, and nothing to do but to hang round the entry of Willard's, cigar in mouth,

had a clear blue eye and a look of resolution, as if he could not be trifled with, and an entire indifference to the crowd about him. Straight nose, too. Still, to see him talking and smoking in the lower entry of Willard's in that crowd, in such times, — the generalissimo of our armies, on whom the destiny of the empire seemed to hang!

Spent the evening at Mr. Seward's. No one present, and Mr. S. and I had a full talk. His conversation always interests me, although it is strange and not always dignified; still it is natural and peculiar. He says the government is back on the platform of Hamilton and the Federalists, and that nothing less is capable of carrying it through the crisis.

This morning at breakfast found the Danas. General Grant was breakfasting with them, so I was introduced. He was just leaving the table, and going to the front for the great movement. I said, "I suppose, General, you don't mean to breakfast again until the war is over." "Not here I shan't." He gets over the ground queerly. He does not march, nor quite walk, but pitches along as if the next step would bring him on his nose. But his face looks firm and hard, and his eye is clear and resolute, and he is certainly natural and clear of all appearance of self-consciousness. How war, how all great crises bring us to the one-man power!

While in Washington at this time Dana made a hurried visit to the camp of the Army of the Potomac, about to enter upon the bloody campaign of 1864, during which it fought its way through the Wilderness and Cold Harbor from the Rappahannock to the James, and across the James to the lines before Petersburg. I was then in command of a detachment of cavalry at the headquarters of General

Meade, and Dana was my guest. He saw Meade, Humphreys and Sedgwick, and from Washington wrote home as follows to Mr. Lothrop and to members of his family : —

[April 26.] Meade and Humphreys are gentlemen, — well-bred, courteous, honorable men, — and they set the tone of headquarters, which is in all respects satisfactory. Sedgwick is a bluff, pleasant, hearty fellow, brave and self-possessed and a thorough fighter. . . . Sedgwick spoke in very high terms of the Massachusetts regiments, especially the 20th, and of Major Abbott who now commands it. He thinks Abbott a bright, particular star, though he did not express it in these words. . . . Headquarters is an *inspiring*, Washington a *dispiriting*, place.

The Major Abbott here alluded to was Henry Livermore Abbott. He was killed a few days later in the terrible battles in the Wilderness ; and it was thought at the time, by those most competent to judge, that no braver officer, nor one of greater military promise, there laid down his life. General Sedgwick was killed at Spottsylvania on the 6th day of the following month.

[May 4.] Since I wrote you I have had interviews with the President, Seward, Blair, Stanton, Welles, and a short one with Chase.

The cabinet is at sixes and sevens, or “ Isaac and Josh,” as my witness said. They say dreadful things of one another. (Not Seward ; I have never heard him speak *harshly* of one of them.)

The President told me he had read my pamphlet on the decision of the Supreme Court, and that it cleared up his mind on the subject entirely ; that it reasoned out and put into scientific statement what he had all along felt in his bones must be the truth of the matter, and was not able to find anywhere in

the books, or to reason out satisfactorily to himself.

[*May 4.*] I leave here this afternoon for Philadelphia.

I dined with Seward — no guests — yesterday at six, and had a good deal of interesting talk.

At nine went to White House, and spent a half hour with Mrs. Lincoln, and then a half-hour or more with the President.

I cannot describe the President; it is impossible. He was sobered in his talk, told no extreme stories, said some good things and some helplessly natural and naive things. You can't help feeling an interest in him, a sympathy and a kind of pity; feeling, too, that he has some qualities of great value, yet fearing that his weak points may wreck him or wreck something. His life seems a series of wise, sound conclusions, slowly reached, oddly worked out, on great questions, with constant failures in administration of details and dealings with individuals.

When I return I will tell you of a high compliment he paid me, in a sincere, awkward manner.

In February, 1865, after Thomas's victories at Nashville, it was obvious that the rebellion was in its death throes, though no one imagined it would collapse so speedily and so completely as it did in the following April and May. Looking back over the struggle and the results accomplished in it, Dana wrote as follows to Mr. Adams: —

[1865. *March 3, Cambridge.*] I have written you in darker times than these, — for instance, in July, 1863, just before Gettysburg, which, notwithstanding you thought it not so grave as I did, I persist in saying was the turning-point in our history. Had Lee gained that battle, the Democrats would have

risen and stopped the war. With the city of New York and Governor Seymour, and Governor Parker in New Jersey, and a majority in Pennsylvania, as they then would have had, they would so have crippled us as to end the contest. That they would have attempted it we at home *know*.

We are now in a state of elation. I do not mean to be taken off my feet, but I confess to great confidence that we are agoing to crush their armies and their central government. If that is done, I see a generation of labor and vast problems to solve, but that should depress no man. To my mind *the one point* to be gained by this war is the settlement forever, at home and abroad, of the fact as well as the theory that our republic is a government, — in the philosophical sense, a state, — created by the people of the republic, acting directly on individuals, to which each citizen owes a direct allegiance from which no power on earth can absolve him, and from which neither state nor individual has any recourse — except to the moral right of revolution. If this is left an open question, the war is in vain. If it is settled, the war is worth its cost. In some respects the abolition of slavery assumes larger proportions than the subject I have named. But, to my mind, the preservation of our combined national and state system — our solar planetary system — is the *sine qua non* of everything else. If that fails, the negro question, so far as it concerns *us*, would be of little consequence. If that succeeds, I think it will carry the negro question with it. The only thing I feared in the late peace conference, and fear now, is a possible settlement which will leave enough for the assertion that the States *came back* in the exercise of the same

right by which they *went out*. But I think the President understands himself on that point, and not having been cursed by a Democratic training, his principles are substantially those of the Federalists of 1789.

You will see from this with what feelings I must have read Goldwin Smith's last letter, advising us to go back to a Confederation, with a legal right of secession reserved. He is a learned, clever, humane, kindly man, but a dreamer, and lacking in common sense. I made up my mind to that in the only interview I had with him shortly before he sailed.

In our affairs, if you read the "Daily Globe," you will see that Sumner has been acting like a madman in the Louisiana question. I do not mean in voting against the acknowledgment of the state government, nor even in the extreme course he took in defeating the majority by resort to delays, — for that may be necessary and permissible in extreme cases, but in the positions he took, the arguments he advanced, and the language he used to the twenty out of twenty-five Republican senators who differed from him. If I could hear that he was out of his head from opium or even New England rum, not indicating a habit, I should be relieved. Mason, Davis and Slidell were never so insolent and overbearing as he was, and his arguments, his answers to questions, were boyish or crazy, I don't know which.

At this time Peleg Sprague, who since 1841 had held the office of judge of the United States court for the District of Massachusetts, resigned because of years and failing health. Towards Judge Sprague Mr. Dana had always entertained feelings of more than respect; for, though they had been wide apart in politics and at times had come in

sharp collision, he appreciated the great judicial acumen and strong mental attributes of one who was probably regarded by those brought in professional contact with him, and who were competent to form an opinion, as a judge than whom no better or more accomplished could be found on the American bench. The high opinion entertained by Mr. Dana of Judge Sprague was reciprocated by him, for a few years later, on the 29th of January, 1877, Mr. Parker, writing to Mr. Dana said: — “I called upon Judge Sprague on Thursday evening — the first time since his retirement. He said that he had not seen you for a twelve-month. He also said of you what I thought deserved writing down, to wit: ‘I have heard Mr. Dana make the best arguments that I ever heard from anybody, except, perhaps, some of Mr. Webster’s.’ This is, as Dr. Johnson would say, a compliment enhanced by an exception, if indeed, it be an exception, for Judge Sprague evidently doubted whether he could make it.”

The position made vacant by the resignation of Judge Sprague was a very important one, and one very difficult to fill, for its duties were engrossing and the salary attached to it small. Mr. Dana was very solicitous lest a mistake should be made, and went on to Washington to give the matter his personal attention. The appointment was offered to him and also to John A. Andrew, then Governor, but declined by both; John Lowell, in whose interest Mr. Dana had gone to Washington, was then nominated and confirmed. The following brief letters written from Washington at this time, and relating to the nomination of Judge Lowell, were characteristic, besides illustrating the difference apt to result from the point of view from which results are seen. The first was from Dana: —

[1865. *March* 12, Philadelphia.] We were delayed all along the route, so that I did not reach Washington until 1.30 A. M. of Saturday [11th].

After sleep and breakfast, devoted myself from

nine to two to securing the nomination of Lowell, and succeeded.

The proper thing to say is that all behaved well, and that they assented to Mr. Lowell, who had the professional recommendation. Of course there were difficulties, objections, manœuvrings, etc., and all condensed into four hours, for the Senate was to dissolve at two P. M. for the year. . . .

The other letter referred to was from Mr. Sumner, and was in part as follows : —

WASHINGTON, 26 March, '65.

MY DEAR —, — Dana's visit came near costing Lowell the judgeship. Nothing but my tenacity saved him. . . .

Ever yours, C. S.

The death of Edward Everett had occurred in January of this year, and the city government of Cambridge invited Mr. Dana to prepare a eulogy upon him. The invitation was accepted, and on the 22d of February the address was delivered. This was the only literary effort of that peculiar, formal mortuary description which Mr. Dana ever attempted, though in the rooms of the Massachusetts Historical Society he had taken part in the meetings held after the deaths of Josiah Quincy and of Mr. Everett himself, and his remarks on those occasions will be found in the volumes of the Proceedings of the Society. But the Everett eulogy at Cambridge was a literary effort of a much more elaborate character, and upon it, as he afterwards wrote to Mr. Adams, he bestowed great pains, adding, "it is the best I can do in that direction, and it presents the views I am attached to, as to the character of our experiment of government in this hemisphere." The acknowledgment of this letter, and the accompanying copy of the address, which he subsequently received from Mr. Adams, led to his writing to him again as follows at the close of a long letter dated September 14th : —

Let me express my admiration for the analysis of Mr. Everett's character with which you favored me in return for my Address. Permit me to say that it is perfect. It gives the key to the casket, and shows you all within, — the riches here, the poverty there, this strong spring, that weak spring, and makes one feel that he could explain or predict Mr. Everett's action under any known circumstances.

The following is the portion of the letter from Mr. Adams thus referred to: —

“It is now forty years that I have personally known Mr. Everett. His relations to my family were commenced through his brother Alexander, who had attached himself to my father at the time of his departure to Russia in 1809, and benefited by his rise in public life during the twenty following years. Before that period expired Edward also came into public life at Washington. Just at the same time I returned from college to live at the President's house, and in the relations that occurred between the families I found my own wife. From that date Mr. Everett's course has been well known to me, and I think I understand his character.

“His perception of public questions, as founded upon abstract moral principles, was on the whole far more clear than is usual among us. And in all forms in which they could be enunciated apart from every connection with immediate interest, he seldom failed to express them with clearness and force. Of the past he generally wrote and spoke well when not in any way associated with the present. His chief defect was his timidity, which was almost like that of a woman. As a consequence you will find that, neither in word nor in action, did he ever originate anything. Neither could he ever have devoted himself to sustain an unpopular cause. The outbreak of the anti-slavery movement was the great neutralizer of the last years of his

life. It brought his convictions into direct conflict with his fears, so that when the great moment of trial came, which would have made the fortune of a braver man, he sank at once and forever from the scene of action.

“In his last days he reappeared in another and a better character. The progress of events had brought him to a point where his fears no longer checked him, for his interests, such as might at his age be supposed to survive, ran on all fours with his convictions. As a consequence he spoke forth at last with all his power what he really felt. The change was wonderful. From that time I felt myself drawn to him as never before. Ever since I left America we have kept up a regular correspondence, from which I have derived both pleasure and profit. To me his four last years appear worth more than all the rest of his life, including the whole series of his rhetorical triumphs.”

The war period was now over; the period of reconstruction had begun. During one of the dark intervals of that war period, Dana at some vacation time found himself in the country with his son Richard, then a lad of thirteen, and the two went out for a day's fishing together. Afterwards he wrote as follows to his friend Mr. Lothrop, and the letter, though never so intended by him, contains the briefest and the best possible summary which could be given of the part he played in the great struggle which occupied the years between 1861 and 1865; and it contains, also, reference, short but sufficient, to opportunities either lost or never offered:—

Richard and I fished in the lake to-day, he beating me entirely. He caught two pickerel and about twenty perch, and I, one bass and about fifteen perch. We are having easy, pleasant times here. For myself, I am ashamed to say so, in the midst of such a war, but my hope is that it may pass for furlough in such work for my country as I can do. I am not

like Sir Orlando Bridgeman and Sir Geoffrey Palmer, of whom Blackstone says that in the troubles of the Civil War they betook themselves to conveyancing, and invented resulting trusts and springing uses. I am ready and desirous to serve in any post for which I am fit. I perhaps made a mistake in declining the chance for Congress in 1861, but I acted against my inclinations in what I thought to be my duty. Annotating Wheaton and condemning prizes is better than nothing, but not what my temperament leads me to, or my qualities are best fitted for.

CHAPTER VI.

LAWRENCE *vs.* DANA.

WHEN, in September, 1866, Mr. Dana resigned the office of United States District Attorney, he was already involved in the early stages of what afterwards became known as the Lawrence-Wheaton controversy. As the bitter and fruitless litigation which grew out of this controversy imposed upon Dana much of the most severe professional labor he ever performed, and as it was in fact the rock upon which the career of his later life may be said to have come to wreck, it is necessary to devote some space to it; and this is all the more necessary as very mistaken ideas prevailed at the time as to the issues involved and questions decided: nor, as vague general impressions are ever the most difficult of things to dislodge from the public mind and memory, have those mistaken ideas yet been wholly dissipated. The course of events which led up to the controversy can be briefly stated:—

The first two editions of Wheaton's "Elements of International Law" were published in 1836, simultaneously in Philadelphia and London. In 1846 a third edition was published in Philadelphia. Two years later, in 1848, a French version, being the fourth edition, was published by Brockhaus, at Leipzig, and the same year Mr. Wheaton died, leaving his family, consisting of his wife and three children, one son and two daughters, in reduced circumstances. Subsequently, the son, who had studied law in the office of Mr. Dana, also died. The family then came to live in Cambridge, where relations of intimacy soon established themselves between the members of it and the Danas.

During the last twenty-five years of Mr. Wheaton's life he had been intimately associated both politically and in his literary work with Mr. William Beach Lawrence; and, while engaged in preparing his Treatise on International Law, Mr. Wheaton frequently consulted with Mr. Lawrence, inviting suggestions from him as different questions presented themselves. After Mr. Wheaton's death the relations between Mr. Lawrence and the Wheaton family continued to be of a most friendly character; and, in the straitened circumstances in which she found herself left, Mrs. Wheaton consulted him as to any practicable means of obtaining additional sources of income. Among other things, about the year 1853, it was suggested that a new edition of the "Elements" might be prepared, and Mr. Lawrence offered to annotate it, so that the treatise should include discussions involving points of international law which had taken place since 1846. It was also a part of the plan that he should write a memoir of Wheaton to be prefixed to this new edition. The sixth edition of the "Elements," annotated by Lawrence, was accordingly prepared, and, in 1855, published by Little, Brown & Co. of Boston, Mr. C. C. Little, the senior member of the firm, having some years before married one of Mr. Wheaton's daughters.

The breaking out in 1861 of the civil war in America drew much attention to questions of international law, and a demand immediately arose for a new edition of Wheaton's treatise. Mrs. Wheaton asked Mr. Lawrence to prepare this new edition, which he did. Subsequently, the Wheaton family claimed that she pursued this course not because either she or Little, Brown & Co., who continued to be the publishers of the book, felt satisfied with Mr. Lawrence as an editor, but because of her husband's and her own long intimacy with him, and the delicacy she felt about asking any other editor to perform the work, she having enjoyed all the pecuniary benefits derived from the 1855

edition. The copyrights of the editions of both 1855 and 1863 were taken out in the name of Mrs. Wheaton, and those copyrights covered the notes of the editor as well as the original text.

Both Mrs. Wheaton and her publishers were dissatisfied with the edition of 1863. This dissatisfaction was due to Mr. Lawrence's very prolix memoir of Mr. Wheaton prefixed to the treatise, rendering it unwieldy in size and costly in publication, while the notes and other matter which the editor insisted, as they alleged, on inserting, were unnecessarily long, and certain of them, it was further alleged, expressed the editor's personal views on current political events, more or less in avowed sympathy with the Southern rebellion. In the judgment of the publishers these facts seriously interfered with the sale of the work, and accordingly Mrs. Wheaton at last made up her mind to have a new edition prepared by another editor.

In reaching this conclusion there can be little doubt that Mrs. Wheaton was largely influenced by her son-in-law, Mr. Little; for, in connection with the edition of 1863, a bitter quarrel had gradually developed itself between him, as one of the firm publishing the book, and Mr. Lawrence as its editor. The relations of the two gentlemen seem at first to have been sufficiently friendly; so much so that, while the first portion of the pages of the edition of 1863 were going through the press, Mr. Lawrence was invited by Mr. Little to make his home at the house of the latter in Cambridge, in order that he might more conveniently attend to proof revisions. As the work went on this feeling underwent a change, and matters finally culminated in an open issue over the title-page of the new edition, Mr. Lawrence demanding that it should be conspicuously headed "Lawrence's Wheaton, Second Annotated Edition," and Mr. Little insisting that the series of editions should be continued from the beginning, and that Mr. Lawrence's name should merely appear in the usual place as editor.

This interference of Mr. Little was treated by Mr. Lawrence as a "gross personal insult" to him as editor; while Mr. Little regarded Mr. Lawrence's demand as a "most audacious piece of interference" with his rights as a publisher. Under the threat of entirely abandoning his work on the unfinished edition Mr. Lawrence carried his point as to the title-page, but all personal relations between him and Mr. Little were then broken off.

In the spring of 1860 Mr. Lawrence, being then in Europe, learned that Brockhaus, the Leipzig publisher, either had issued or was about to issue a new French version of the "Elements," together with Lawrence's notes of 1855. Without conferring with Mrs. Wheaton he entered into a correspondence with Brockhaus, charging him with violating the legal rights of the proprietors of the work by neglecting to compensate them for the editions he had published subsequent to the first, which he had issued under an agreement with the author, and for which he had made compensation. While denying that Mrs. Wheaton had any legal rights in the premises, Brockhaus acknowledged that he had issued the editions in question, but said he was ignorant that any descendants of Mr. Wheaton were living; being now informed of the fact, he very handsomely recognized an honorary obligation, and expressed a willingness to pay them a reasonable sum as an honorarium, and to obtain from them a recognition of his exclusive right to publish future European editions of the work. As a part consideration for this payment, it was understood that Brockhaus should receive for translation and publication, proof sheets of the new edition of 1863 then contemplated. During the long negotiation and correspondence both with the Wheatons and Brockhaus which now took place, Mr. Lawrence evinced for the first time uneasiness as to his own position and rights in connection with his editorial work. In a note of June 2, 1863, addressed to Miss Wheaton, after referring to the annoyance he had experienced during the previ-

ous winter, connected with the publication of the edition of that year he said, "I came to a conclusion at that time, from which I have seen no reason to vary, that I will occupy myself hereafter on no literary work which is not my own property and over which I do not possess exclusive control. . . . I had apprised Mr. Brockhaus before the receipt of your letter that no arrangement could be made in which I am included till I come to an understanding with you. . . . The money you may receive forthwith, as he will pay it under my assurance to complete my task; but, in such event, I must have an assignment of the copyright here as well as in Europe, so that, if I do anything more, which, at my age, is very doubtful, I may thereafter be free from all shackles."

The avowed purpose of Mr. Lawrence was, therefore, to obtain an assignment to himself from Mrs. Wheaton of the copyright of both the original text of Wheaton and his own notes before permitting her to draw on Brockhaus for the honorarium, amounting to 6,000 francs, which that publisher proposed to pay, and of which the Wheaton family, as Mr. Lawrence was well aware, stood in urgent need. Mr. Lawrence came to Boston a few days after writing the above letter of June 2, saw Miss Wheaton about the Brockhaus payment and the proposed transfer of copyright, and was referred by her to Professor Parsons, of the Cambridge Law School, as the proper person for him to confer with, representing her mother. Mr. Lawrence then went to see Professor Parsons and a long conversation took place between them. Mr. Lawrence frankly said he thought Mrs. Wheaton ought under the circumstances to assign to him a copyright of the entire treatise, both text and notes. This Professor Parsons said was impossible. After further conversation, in the course of which Professor Parsons afterwards declared it was apparent Mr. Lawrence, knowing the extreme pecuniary necessities of the family, proposed to himself to use the power he had of obstructing the payment

of the money by Brockhaus as a means of coercing the Wheatons to doing what he desired, Professor Parsons suggested that Mrs. Wheaton should receive the money from Brockhaus and should agree to give Mr. Lawrence the right to make any use he saw fit of whatever he had himself done in connection with the "Elements." Mr. Lawrence pronounced himself satisfied with this, and Professor Parsons then wrote out the rough draft of a memorandum and handed it to Mr. Lawrence, writing on the back of the paper for the information of Miss Wheaton that in it was set forth the conclusion they had reached. Subsequently, on the same day, Mr. Lawrence saw Miss Wheaton, who signed and dated the memorandum, in pursuance of which a draft for 6,000 francs on the house of Brockhaus was approved by Mr. Lawrence, and on presentation subsequently paid. The memorandum was as follows:—

" MEMORANDUM.

" Mr. Lawrence will write to Mr. Brockhaus, in terms to bring to Mrs. Wheaton the right to draw on Mr. Brockhaus at once for 6,000 francs. He will also endeavor to get from Mr. Brockhaus as much as he can towards the actual expense of having the translation into French made here. And so much of that expense as he fails to get from B. Mrs. Wheaton will pay, from the proceeds of the draft on Brockhaus. On the payment of her draft on B., Mrs. Wheaton will agree formally to make no use of Mr. Lawrence's notes in a new edition without his written consent, and Mrs. Wheaton will give to Mr. Lawrence the right to make any use he wishes to of his own notes.

" M. B. WHEATON.

" June 14, 1863."

It will be noticed that the paper thus signed was a mere memorandum of an agreement which it was proposed thereafter to have formulated and duly executed by the parties. A great deal of correspondence subsequently took place

between Professor Parsons and Mr. Lawrence in relation to this formal agreement. At least two completely drawn instruments were prepared and sent to Mr. Lawrence, neither of which were satisfactory to him. Finally, on the 2d of November, 1863, Mr. Lawrence closed the correspondence by a letter, in the course of which he used the following language: — “On reflection I have determined to decline accepting any paper whatever from Mrs. Wheaton and therefore return the enclosed. As she is in receipt, in anticipation, of my future labors for the Leipzig edition, and which I, therefore, feel bound in honor to Mr. Brockhaus to complete, and has had all the copyright money from the editions in English that Mr. [Little] has been pleased to allow her, she cannot but be gratified at the decision at which I have arrived.”

This letter left both Professor Parsons and the Wheaton family under the impression that no formal agreement had been executed, and the whole matter had come to an end, — that Mr. Lawrence did not propose to make any further claim to a copyright either in the text or notes of the 1855 and 1863 editions of the “Elements.” Such was in no degree the understanding of Mr. Lawrence. He, on the contrary, was, as he afterwards expressed it, satisfied in his own mind that “if the memorandum [of June 14] was literally complied with,” he could thereafter “find no competitor” in the work of annotating Wheaton. He “considered that the text of Wheaton by itself would be perfectly useless at the present day without the additions” to it which had been made by him, or without other additions equivalent to his; which other additions if made would constitute an infringement of the copyright assigned him under the above memorandum of agreement. In other words, and to quote the language of the bill in equity afterwards filed in his behalf, he believed he had now “devised a plan, . . . proper and sufficient, in view of the situation of the parties, and the nature and condition of the subject-

matter, to practically secure and give to [him] the complete and exclusive control of all future editions of Wheaton's 'Elements.' " In this shape the matter now rested.

In 1863 the press, both in America and Europe, teemed with discussions of topics arising out of the complications incident to the rebellion and connected with international law. Treatises, and especially American treatises, bearing on those issues, were in much greater demand than ever before, or since. Consequently almost before the 1863 edition of Wheaton had been issued the question of a new edition was under consideration. In all probability Mr. Little, representing the firm of Little, Brown & Co., had insisted that the work of editing the new edition should be done by some one other than Mr. Lawrence. However this may have been, without in any way communicating with Mr. Lawrence or notifying him of her intentions, as unquestionably in view of all the facts she should have done, Mrs. Wheaton, at the very time Professor Parsons received from Mr. Lawrence the letter of November 2 containing the language just quoted, proposed to Mr. Sumner that he should undertake the work. Mr. Sumner naturally declined. Thereupon, towards the close of 1863, she called on Mr. Dana and begged him to take Mr. Lawrence's place.

There is no doubt as to the opinion entertained by Mr. Dana of Lawrence's editions of Wheaton. He had of late had occasion to consult the "Elements" carefully in preparing his argument in the Prize Cases, and subsequently he had in a pamphlet, written to set forth the true significance of the decision of the court in those cases, criticised sharply certain statements in regard to that decision made by Mr. Lawrence in a letter published not long before in a British law magazine. He regarded Mr. Lawrence, in short, as an advocate of the right of secession, and a citizen whose loyalty was open to question. Mr. Lawrence in his hot wrath afterwards alleged that this pamphlet was written for the express purpose of having him sent to keep company

with other suspects in Fort Warren ; but while Mr. Dana characterized any such suggestion as simply "crazy," there is no manner of doubt that he considered Lawrence's editorial annotations as unworthy, and as constituting a blemish on the valuable work left by a man for whose memory he felt the utmost veneration.

None the less, the estimate in which he held Mr. Lawrence, whether as a citizen or an editor, afforded no sufficient reason for burdening himself with the heavy task of annotating an edition of the "Elements," and at first Mr. Dana absolutely declined even to consider Mrs. Wheaton's request. His official duties occupied much of his time ; he doubted his own qualifications for the task ; and, with a vivid recollection of his experience in 1859, he was fearful of again overworking himself. Not satisfied with this refusal, Mrs. Wheaton a little later repeated the offer, and now urgently pressed it upon him. Finally, being fairly over-persuaded, he reconsidered his first and more prudent determination and accepted Mrs. Wheaton's proposal, being, to use his own words, "strongly drawn to it from my interest in the subject, a desire to increase my knowledge of it, and, if it might be so, to add to my reputation ; and I think I may truly say with an element of friendship for the family." In order to enable himself more effectually to accomplish the task thus assumed, Mr. Dana now made arrangements in the district attorney's office to be relieved from such duties there as he did not feel the government had a right to require of him personally. He likewise refused all outside professional engagements. To use his own language, after this time, "except when in a library, I did my work at my study in Cambridge, which for two years was a workshop and depot of international law, my table, chairs and floors being mainly covered with borrowed books or my own in immediate use, while I wrote at a standing desk." He adds that to the leading notes of his edition, "I gave as thorough thought, I applied to them as much mental power

as I am capable of giving to anything. However long I may live, I can never expect to try harder and give more original power to any subject than I did to those notes."

The result was the eighth edition of Wheaton's "Elements," which appeared in the summer of 1866, Mr. Dana being at the time of publication in Europe, whither he had gone for a period of rest and recreation after his long and sustained labors. In view of the prospective fruits of these labors, the degree of Doctor of Laws was conferred upon him by Harvard College at the commencement which occurred shortly after he had sailed.

It so chanced that I also was in Europe that summer, and in August met Mr. and Mrs. Dana in London. A few days later we again met on board the Cunard steamer, upon which we were to be fellow-passengers back to America. Mr. and Mrs. Dana had just returned from a brief visit to the Argylls at Inverary Castle in Scotland, and while we were seated in the cabin of the steamship waiting for her to sail, Dana tossed across the table to me a few newspaper slips which he had just received in an enclosure from America. They were communications and comments called forth by the new edition of the Wheaton,—opening shots in the great controversy which was about to take place between himself and Mr. Lawrence; for in certain of them charges of plagiarism were advanced against him in connection with the work. I well remember the complete indifference with which he treated the whole matter. Apparently it made scarcely an impression upon his mind, so absolutely secure did he feel in his position, and no further reference was made to it between us during the long and tempestuous voyage which followed across the Atlantic. The sense of security on Mr. Dana's part was based on the understanding between Mrs. Wheaton and himself. This understanding both as to the text to be used in preparing his edition and the use to be made of Lawrence's notes to the two preceding editions had been distinct. He had positively declined

to undertake the labor of comparing the 1863 text with the texts of the prior editions. No alterations in it were to be made other than to correct obvious mistakes of the press, or in grammar or punctuation. This had disposed of the matter of text; and, as regards Lawrence's notes, he had been informed that Mrs. Wheaton desired, in preparing the new edition, he should detach Mr. Lawrence altogether from any connection with Mr. Wheaton's work, thus leaving Mr. Lawrence in such a position that, if he wished thereafter to publish anything of his own on international law or any of its branches, he should be perfectly free to use his notes to Wheaton for that purpose.

In writing the preface to his own edition Mr. Dana accordingly used the following language: — "It" [the present edition] "contains nothing but the text of Mr. Wheaton according to his last revision, his notes, and the original matter contributed by the editor." And again, — "The notes of Mr. Lawrence do not form any part of this edition. It is confined, as has been said, to the text and notes of the author and the notes of the present editor."

There is an obvious abruptness, not to say discourtesy, in this curt dismissal by one editor of the laborious work of a previous editor which certainly calls for explanation. That explanation is found in the quarrel already described which had taken place between Mr. Lawrence and the Wheaton family, including Mr. Little, and in the subsequent interviews and correspondence which remain to be described; in the course of which, as will be seen, all the parties, including Mr. Dana, succeeded in working themselves into positions more or less false and compromising.

While undoubtedly Mr. Lawrence had originally assumed the work of editing Wheaton from the most laudable motives and with the kindest possible desire to benefit pecuniarily the family of his friend, yet an examination of his work leaves equally little room for doubt that the Wheatons had excellent ground for questioning his ability as an

editor and suspecting his ulterior purpose. In fact, he seems to have lacked nearly every qualification for the work of annotating properly a book like Wheaton's "Elements," except great industry and a well-nigh unlimited faculty of accumulating material. Without either originality of thought or power of lucid expression, he had a most overweening idea of his own attainments and the estimation in which he was held as an author and publicist. He did not, for instance, hesitate to say that he considered himself as an equal authority on all questions of international law with Phillimore and Twiss and Hantefeuille and Massé, that his "position to Wheaton was as that of Coke to Littleton," and that, as "no one dreamed of separating them," he had no idea that any one would make an attempt to separate his commentaries on it from the text of the "Elements."

In this matter of self-estimate Mr. Lawrence was, perhaps, in no way exceptional among those who have devoted themselves to the exposition of what is known as the science of international law. Owing to the fact that there is no recognized tribunal to declare finally what is or is not law as between nations, writers on the subject are apt to fall into the habit of arrogating to themselves some small shred or fragment of that authority which really belongs nowhere. In his own eyes at least, no matter what may be the intellectual quality of his work, the writer on international law becomes, not the compiler of an ordinary legal textbook, but a Publicist,—a species of recognized, though self-constituted, arbiter between contending nations. Mr. Lawrence seems to have been afflicted to an even unusual degree with this common weakness of the class of investigators to which he had at an early period of life attached himself; though in his as in many other cases the general estimate in which he himself and his work were held did not coincide with his own estimate. A fact which, perhaps, had caused him to be, as he himself expressed it, "on more than one occasion passed over in the conferring of College or

University honors for some country attorney whose name was never heard beyond the sound of his village bell," while in Europe his own name was enrolled "with those of Michel Chevalier and the Prussian Professor of Jurisprudence, Holtzendorf." But all this made it none the less difficult to deal practically with one who did not hesitate openly to avow such views of himself and his own importance. Undoubtedly, when it was determined by the Wheaton family to supersede him as an editor it would, under any ordinary circumstances, have been the proper course to advise him frankly of the fact. The difficulty was that in his case it was wholly out of the question to state to him the real grounds of the proposed change; nor would he have credited them had they been stated to him. He could not, for instance, be informed, no matter how diplomatically, that his memoir of Wheaton was so dull as to be scarcely readable, and so obscure in style that it could with difficulty be understood.¹ Neither was it easy to explain to him that his

¹ The two following passages from the memoir illustrate what is here meant: —

"The practice of impressing seamen from our merchantmen, when visited by British men-of-war, under the belligerent plea of the right of search for contraband, or, according to the rule that then prevailed, for enemy's property, which had been a ground of complaint from the earliest days of the French Revolution, and which, at all events, had no pretension of retaliation, founded on the enemy's proceedings, to support it, had been resumed on the termination of the peace, established by the Treaty of Amiens." (Edition 1855, p. xix.)

"At this day, looking not only to the causes of the war — the utter disregard of our flag in the impressment of our seamen, aggravated, even so early as June, 1807, by the act of a British admiral, scarcely disavowed and most inadequately atoned for, in wresting, after the loss of several lives, four of the crew from a ship of war of the United States, and the condemnation of our vessels in pursuance of Orders of Council, which even the British courts of admiralty did not venture to assert were consistent with the law of nations, but to the manner in which it was conducted — subjecting to conflagration edifices consecrated to legislation, setting at naught the ties of a common origin and introducing the tomahawk of the Indian among the weapons of

method of annotation was so bad that he was fairly overwhelming the original text by a mass of undigested citations and quotations, and a general lumber of learning which threatened to bury Wheaton as effectually under Lawrence as Littleton had been buried under Coke. For instance, the original text of the "Elements" was all contained in one volume of some 400 pages. Lawrence's first edition of 1855 swelled this to 924 pages, which the edition of 1863 further extended to 1,232 pages. The fate in store for Wheaton under this method of treatment was obvious; for subsequently, when, as the result of the controversy over the edition of 1866, Mr. Lawrence undertook to publish through Brockhaus a new European edition of "Lawrence's Wheaton," the publisher, after getting himself fairly involved in the undertaking, found, to his utter and almost ludicrous dismay, that the proposed work had swollen to no less than six volumes, of which the notes constituted four; and Mr. Lawrence, in the course of the correspondence which took place in regard to this edition, unconsciously revealed the fate to which he had in his own secret imaginings consigned Wheaton. He was, he wrote, "seized with the ambition of making a work that would be indispensable to cabinets as well as to judicial tribunals; a work which would embrace the results of the decisions of courts acting under the law of nations, as well as the diplomatic negotiations, on which depended the existing relations of the different states of the world." This *Magnum Opus* of Mr. Lawrence's was slowly published by Brockhaus between the years 1868 and 1880, the commentary appearing in advance of the text. It is almost unnecessary to add that it fell stillborn from the press.

Under these circumstances, actuated by a false delicacy and evident unwillingness to invite the conflict necessarily

British warfare, it is scarcely possible to believe that those, to whom the Constitution confided the conduct of our foreign affairs, did not receive the unanimous support of the American people and of the State authorities." (Edition 1855, p. xxvii.)

impending, — an unwillingness largely due in the case of the Wheatons to the timidity natural to women of refinement, — neither they nor the publishers of the proposed edition gave any formal intimation to Mr. Lawrence of the course which it was intended to pursue. They left him to find it out in the necessary development of events. Neither did Dana make any such communication, or feel called upon so to do ; though he made no concealment as to the work upon which he was engaged. To use his own language: —

As soon as I undertook the work I wrote to my friend Dr. Lieber of New York, the eminent publicist, and received from him the kindest offers of assistance, which he made good by directing me to continental sources and by occasionally writing to Europe in my behalf. . . . I made known generally to all friends or acquaintances who I thought could help me what I was about and what I needed, and sometimes received materials and valuable hints. President Woolsey, whom I have always known, sent me the proofs of his second edition, and I had a good deal of personal conference with him. I went to Washington several times, where it was known that I was undertaking this work, and received from the State and other departments offers of such materials as were open to the public, and I did receive from the State Department the earliest copies of documents such as they saw fit to make public up to the very end of my labors.

Nevertheless Mr. Lawrence seems to have remained in complete ignorance of what was going on until one day in November, 1865, Chief Justice Bradley of Rhode Island casually, in the course of a visit at Mr. Lawrence's house in Newport, informed him that a new edition of Wheaton by Dana was in course of preparation. Then, according to his own account: —

“I immediately determined, believing it to be a gross calumny on Mr. Dana, to go and do what I should have expected him to do under similar circumstances, which was to get a personal disavowal of the story. I went that afternoon to Boston, and saw some two or three literary friends who I supposed would know the fact if it were so. They had heard nothing about it, and agreed with me that it must be false. Next morning I called at the office of the United States District Attorney, and never having seen Mr. Dana personally, I sent him my card, and, after a short time, was admitted.” . . .

The interview which ensued, Mr. Dana subsequently described as follows : —

In January, 1866, a gentleman came into my office, and introduced himself as Mr. Lawrence. He said that he had just learned — to the best of my recollection he said that morning, and immediately before coming in — I am quite sure he said from Mr. Sumner, though I won't be positive about it, but he spoke of it as something just come to his knowledge — that I was editing a new edition of Wheaton. I told him that I was. He expressed himself with a great deal of warmth and excitement, so much so that, especially being unused to his manner, I had great difficulty in learning what he meant, and even what he said. He talked with great rapidity, and threw in all the topics of himself, the Wheaton family, the late Mr. Wheaton, Mr. Little, and the name of Brockhaus occasionally, so that at last I remember being obliged to take the liberty with a gentleman of distinction and of superior age, to say that if there was anything he wished me to do or not to do, as I supposed from his manner he did, I must ask him to endeavor to make it more plain to me. He took no offence, ap-

parently, but still I could not get from him anything like a distinct idea of the points in which he thought himself injured, the claims he made on the book and notes, or what in my proceeding he objected to. He said that to take the editing of this work out of his hands, under such circumstances, was unworthy of a man of letters and education, and spoke of my course with a severity which I was bound either thoroughly to stop and resent on the spot, or to treat with entire indifference. Considering his age, his reputation, and his prior relations with the book, and what I supposed was his natural disappointment when he saw himself superseded, I took the latter course. I do not mean by the former course to refer to anything in the nature of force, but only of the language which one gentleman uses to another when he wishes to close a topic. I said to him that he seemed to think I was doing him or might do him injustice, and must ask him to point out how I could remedy it. His answer was still a repetition of those matters in a way that gave me no light. He spoke with great severity of the conduct of the family, and was particularly severe upon Mr. Little. I at last put specific questions. I asked him if he meant to object to a new annotator being employed: whether he claimed a monopoly in the annotation. The impression I got from a rather confused answer was, that he referred not to rights which a court had charge of, but to what was honorable and courteous between men. I then asked him whether he meant to question the right of Mrs. Wheaton to publish her husband's text and notes without annotations by any one. I certainly understood him to disclaim any such objection as that. I put that as a first step in an argument to him. I

then said, — If she can publish her husband's text and notes without more, can she not publish them with new notes? He hesitated at that; but there, again, I understood him to say that he referred to propriety, rather than matters for a court. I don't recollect whether anything was said about Mrs. Wheaton's copyright in his notes as a distinct subject, but during that conversation I supposed she had such a copyright undisputed. I then told Mr. Lawrence that as his objections were to the courtesy and propriety of publishing a new edition with a new annotator, and he did not point out anything for me to do, I must refer him to the owners and the publishers. I was merely in the position of a person who was furnishing notes to the book at Mrs. Wheaton's request, — that I entered on the work with no suspicion of any objection to my course either in law or in propriety, — and saw none now. It was a matter evidently that lay between him and Mrs. Wheaton. He said he had difficulties in conferring with them on account of Mr. Little, as I understood him. I then told him that I should of course go on with my work unless stopped by Mrs. Wheaton, or unless I was shown some reason why I should myself decline. I explained to him fully, to the best of my ability what instructions I had received as to his notes, and what course I had taken. At that time the book was expected out soon — I mean within a few months. I made the same explanation to him which I have attempted to make here, which was that Mrs. Wheaton did not intend to interfere with his using his notes in any original work he might undertake, but on the contrary seemed to feel it a duty and pleasure to allow the entire use of them, as if she had no copyright; and that I should make no

use of them, which I could not properly make if they were his property, under his copyright. I told him, further, that he would find, I was sure, when my book appeared, that, so far as that edition was concerned, his original matter would be as untouched by me, or words to the effect of not being reproduced or used over again, I cannot remember the exact phrases, as if I had never printed, or something like that.

The closing assurance given by Mr. Dana in his account of this interview seems to have been more satisfactory to him than to Mr. Lawrence. Indeed, the reply to it of the latter was grimly significant; for, when informed that he need feel no apprehension his notes would be used in a way which would interfere with their use by himself in any future work of his own, he remarked "he would see how that turned out when my [Dana's] notes were published."

It was the study of the house at Ochre Point, Newport, which now, in the later summer and autumn of 1866, became the "workshop on International Law," or rather the laboratory in which every note of Dana's edition was resolved into its original elements, and then compared with the corresponding notes in the previous editions of Wheaton. It is needless to say that the process soon brought to light a formidable array of resemblances; nor could it well, under all the circumstances, have failed so to do. Sweeping charges of plagiarism and literary piracy were at the same time made through the press, accompanied by a general publication of miscellaneous private correspondence, which finally elicited from Miss Wheaton, her mother having died shortly before, the following cry of pain:—

CAMBRIDGE, *May 4, 1866.*

My dear Mr. Lawrence,— I have neither the strength nor the wish to open a correspondence on a painful subject. Let me only ask of you, as a gentleman, not to bring before the public any more of my mother's private and confidential

letters. Her children have suffered much for her and with her. Let her memory and that of my father be sacred.

Yours, M. B. WHEATON.

At first the publishers indulged in a mistaken sense of security. They relied confidently upon the ownership, undisputed, as they believed, by Mrs. Wheaton of the copyright of the several editions of the "Elements," including those edited by Lawrence. The copyright was clear, and on its face covered all the annotations, as well as the original text. On his part, Mr. Dana, conscious of the fact that his annotations were in their scope and substance the fruits of his own thought and his own labor, and feeling moreover a contempt which he scarcely cared to conceal for both Lawrence's acquirements and his literary skill, was committing the fatal error of underestimating his opponent. In point of fact, Mr. Lawrence was the farthest possible from being an opponent to be despised with impunity, as Mr. Dana might easily have learned had he taken the trouble to inform himself at Newport; for among his neighbors Mr. Lawrence was not regarded as conspicuous for amiability. On the contrary, he was a man well-known to be untiring in several other respects besides industry; and he was also possessed of large means. Moreover, in the present case, he had just cause of wrath, for it was in nowise calculated to exercise a soothing influence on a man who thought he occupied the position towards Wheaton which Coke occupied towards Littleton, to see the slow accumulation of his work swept out of existence as so much literary rubbish. He was by no means disposed to be consigned to oblivion in such unceremonious fashion. As he had told Dana in their interview in the Boston office of the latter, the course that was being pursued towards him did him, in his own opinion, a greater injury than taking from him his whole property. The notes in Lawrence's Wheaton contained the labors of forty years, by which he had hoped inseparably to connect his

own name with that of his friend, as well as to secure permanent literary reputation; and so now he proceeded in wrath, which neither time nor reflection cooled, to the work of "vindicating [himself] from the dastardly attacks of assassins."

So long as Mr. Lawrence confined himself to the newspapers, Mr. Dana took no notice of his attacks, though the world was edified by the spectacle of one learned publicist vigorously belaboring another in the public prints, charging him in language which knew no bounds with conspiracy, plagiarism and literary piracy, and, indeed, with nearly every crime which one author can be guilty of towards another.¹ But the newspaper attacks were merely the skirmish which preceded the conflict; for in October, 1866, legal proceedings, grounded on alleged infringement of copyright, were begun by Mr. Lawrence against Little, Brown & Co., the Wheatons and Mr. Dana in the United States circuit court for the district of Massachusetts. The proceedings were based upon the memorandum of June 14, 1863. It was insisted by counsel of Mr. Lawrence that under this memorandum of agreement, which had never been matured into a formal paper, much less recorded, an equitable copyright in his own notes had been conveyed by the Wheatons to Lawrence. They, therefore, in his behalf demanded an injunction against the publication and sale of the edition prepared by Mr. Dana, a surrender of all the copies still in the hands of the publishers, an account of the profits, and also the assignment to Lawrence of the entire copyright in the prior editions of the "Elements."

On the part of the Wheaton family it was in answer contended that the memorandum of June 14 was a mere

¹ "In my [Lawrence's] direct examination I had confined myself simply to a reference to his [Dana's] answer, which I supposed contained a disavowal under oath of that which he felt himself at liberty to state when not exposed to the pains and penalties of perjury." — *Record*, p. 137.

informal paper, which had never been executed by the parties, and that it had no legal binding effect. Even were it otherwise binding, they maintained that Mr. Lawrence's subsequent letter of November 2, 1863, operated as a release from it, and the entire arrangement proposed had then been voluntarily abandoned by him. But whether this, so far as they were concerned, was or was not the case, before Mr. Dana could be brought into the suit as a defendant it was necessary to show some knowledge on his part that any such memorandum as that of June 14 existed. Inasmuch as Mr. Dana had uniformly and intentionally declined to participate in any way in the quarrel between Mr. Lawrence and the Wheatons, or to read any papers relating to it, this apparently was not an easy thing to do. But in the course of the evidence it appeared that on one occasion Professor Parsons had received from Mr. Lawrence a voluminous letter, and this letter he had disposed of by sending it, only partially read, to Mr. Dana, whose house was not far from his own. Mr. Dana was at work in his library when the missive from Professor Parsons was handed to him, and, after glancing at the informal note which accompanied it, he rolled the inclosure up again, carefully abstaining from reading a word of it, and returned it to Professor Parsons with a brief reply, of which he kept no copy, but which was, as nearly as he could afterwards remember, in these words: — "If you can show me any reason why I should read a letter of forty pages, addressed to yourself, which you won't take the trouble to read, and which you do not pretend to have any authority for submitting for my perusal, why, — and thou lovest me Hal, — answer or keep the document." Subsequently in the course of the legal proceedings it was alleged that this letter from Mr. Lawrence contained a full notice of the memorandum of June 14, and the claim of copyright thereon made by him; but it is a singular fact that no trace of the letter itself was afterwards found. Mr. Lawrence, in presenting his case, neither produced it nor a

copy of it; nor did he call on Professor Parsons for the original. No attempt was made either to obtain it or to prove that it was lost; nor was any evidence of its contents offered.

However, therefore, it might be in construction of law, as a matter of fact Dana was wholly uninformed as to the memorandum of June 14, and supposed that the Wheatons held the legal copyright both of the text of the "Elements" and of the annotations of 1855 and 1863. The Wheatons again, assuming as they did that the idea of the agreement provided for in the memorandum of June 14 had been abandoned by mutual consent, were under no obligation to call the attention of Mr. Dana to it. The instructions of Mrs. Wheaton to Mr. Dana as editor of the proposed new edition have already been referred to. They were simply that she desired Mr. Lawrence's notes to be separated from her husband's work; but she did not wish in any manner to stand in the way of Mr. Lawrence, should he desire to use his notes in any original work he might thereafter publish. Mr. Dana was, accordingly, in his own editorial work, to make no use of Mr. Lawrence's notes which would in any way interfere with such further and independent use of them by their author and owner.

The denial by the Wheatons of the validity and binding force of the memorandum of June 14, and Mr. Dana's alleged ignorance of its existence, were in the nature of demurrers to the charge of infringement of copyright. If the court held these points well taken, the proceedings would then and there have come to an end, and it would of course have been unnecessary to go into the merits of the case. But, in apparent accordance with the practice of the Circuit Court of the United States when sitting in equity, these points were not decided when raised, and the whole question of infringement of copyright in all its detail was entered upon. It is no exaggeration to describe as appalling the labor involved in this investigation. The notes of Lawrence in the edition of 1863, which it was alleged had

been infringed by Dana, covered approximately 600 printed pages. Dana's edition of the "Elements" contained over 700 pages, and it was estimated that at least half of those pages were filled by his notes. They, with the cross-references, were 258 in number, and of these it was charged that 140, or more than one half, had been copied in whole or in part from Lawrence. Of the remaining 118 notes it was further and, as it were incidentally alleged, forty-three were taken "wholly," "chiefly," or "in great part" from Story, Phillimore, Halleck or Woolsey; while the others, when not mere cross-references or citations, were for the most part criticisms, more or less brief, on Wheaton's text, "some of them rather severe, and implying that Mr. Wheaton did not understand the subject about which he was writing." To substantiate this somewhat elaborate analysis and very formidable arraignment Mr. Lawrence permanently employed Mr. E. R. Potter, a lawyer practising in Kingston, and subsequently a justice of the Supreme Court of Rhode Island, to make an exhaustive analysis of every note of Dana, comparing it with every note of Lawrence; and while the bill in equity on behalf of Mr. Lawrence was filed in October, 1866, only three months after Mr. Dana's edition of the "Elements" had been published, the deposition of Mr. Potter, which covered ninety printed pages, was not taken until August, a year later. The intervening time had been occupied in preparing it. The answer to this deposition on the part of Mr. Dana filled a volume of 222 pages, and was filed at some period in 1868. The reply of Mr. Lawrence to this answer filled a volume of 244 pages; and the final response of Mr. Dana to this reply, filed in May, 1869, covered 98 pages. The literature of the case far exceeded a thousand printed pages, while the labor of three years hardly sufficed for its preparation.

The claim originally made by the counsel of Mr. Lawrence was that more than half of Mr. Dana's notes "were identical in the materials used and the use made of them,

and were such that from the nature of the subject and of the materials accessible to the writer, their identity with the notes of Lawrence could not have arisen except from copying." It was further claimed that a considerable portion of the text of the "Elements" in the edition of 1863 had been "manufactured" by Mr. Lawrence from materials left by the author, and derived from various sources, and that it differed essentially from the text of the last edition, that of 1846 prepared by Wheaton himself. It was therefore contended that Dana's use of the 1863 text of the "Elements" was also an infringement of the rights of the previous editor. It was further alleged that Mr. Dana had not even made a pretence of original examination of authorities in preparing his edition, and that citations in his notes were clearly traceable, even in their errors, to the citations made in Lawrence's notes in the edition of 1866. An elaborate statement of these alleged infringements of copyright was then prepared under Mr. Lawrence's supervision, and this he presently sent to all of his correspondents in Europe, including nearly every living authority on subjects of international law. The widest possible publicity was thus given to his charges.

Apart, therefore, from any legal questions involved, it gradually became necessary for Dana to enter into the merits of the case. He had to protect his reputation by showing that the allegations thus made had no foundation in fact. He could not afford to rest under such imputations, even though the court might decide the case in his favor on some preliminary point of law.

So far as what is commonly known as originality in the thought or composition of the notes to the two editions was concerned, the charge of plagiarism or literary piracy was speedily disposed of. It was, in fact, disposed of by the very definitions given by the editors themselves of the scope and duties of editorial work, and the way in which it should be accomplished. In his evidence Mr. Lawrence

expressly disclaimed any attempt on his part at what may be termed originality. Referring to this subject, he said that in his editorial work he did not intend to indulge in a single speculation of his own, nor would he have considered himself justifiable had he done so; and he added that if there was a passage in his notes laying down any doctrine or principle of international law which could not be deduced from prior authorities, it should not be there; or if there was any opinion of his own varying or affecting any such principle contrary to the doctrine of the text, it was there by inadvertence. His method of composition was to examine the authorities in search of a few pointed sentences which seemed to him to contain the pith of the whole matter. These sentences he would then string together; thus manufacturing a text.

Dana, on the other hand, took an entirely different view of the editorial functions. He regarded the accumulation of authorities and the making of extracts from them as but a small part of the work of a really competent editor. His aim was to make his larger notes treatises on important topics. In them he essayed to take subjects up and deal with them philosophically. In preparing those notes, his custom was to read whatever he could find in the leading authors bearing on the subject, including pamphlets, parliamentary speeches, etc., jotting down in every case memoranda as he read. When this work of preliminary examination was over, he gave to the topic careful thought; and, when fully satisfied as to results, wrote out his note, often rewriting and correcting it. His effort was to condense to the utmost, and in order to do so it was his practice not to quote at length, but to give the substance of the authorities, and give it in his own language, referring the reader to the originals only in very important and critical cases. His principal notes were thus in the nature of essays or monographs. Accordingly, when the pages of his manuscript were finally returned from the printer to be used

in the suit brought by Lawrence, he claimed that there was not "one piece of what is called 'scissors work' in them." "For," said he, "I cannot either intellectually or morally do beggar's book-making. I must put into the work my own brain, style and other characteristics, whether for better or for worse, or not do it at all."

Where two men assume the task of annotating the same treatise, and enter upon the work with views so diametrically opposed as to the way it is to be done, it is not possible that either of them should plagiarize from the other. It was most natural, therefore, that Dana should afterwards say, referring to Lawrence's notes and the examination he made of them: —

I came to the conclusion that we [Lawrence and himself] were so totally unlike, that if he had offered me the free use of his notes I should not have used any of his original composition. His [Lawrence's] mode of examining into a subject, his analysis of matter before him, the manner in which the writings or acts of others impressed him, especially his mode of communicating his ideas in written style; in fact, his entire organization, as far as it affects him as an author or annotator, as well as his mental habits for a lifetime, are probably as unlike my own as it is well possible to conceive. To a great extent, also, what I may call the drift of his inclinations, his tendencies on international law and kindred topics, as far as regards the philosophy of the same, and the mode of dealing with materials, were equally different from mine. . . . He added, usually, the whole of a document, speech, or an entire debate, or letters, and indeed of most other materials, and made very long quotations. He did not undertake much, certainly not anything like a corresponding amount of

that work which I endeavored to do. . . . I can say without hesitation that I never did, in one instance, take a paragraph, note, sentence, or clause of Mr. Lawrence's composition, and write anything based upon the idea and style presented by him. I never took him, in any instance, as a model, or as an outline of anything of that kind; I mean to say generally that all my original composition was as independent of his as it was of Mr. Wheaton, Mr. Halleck, Mr. Phillimore, or any other writer whom I ever read upon the subject.

Nor was this in any respect an overstatement. It is in fact impossible to read any of the leading notes of the two men in the several editions of Wheaton, without seeing that the methods of expressing thought pursued by Dana and those pursued by Lawrence, were as wide apart as the poles. Mr. Lawrence was essentially a collector. But Mr. Dana stated the case in regard to him not unfairly:—

With great wealth, a large library, and many facilities at home and abroad, Mr. Lawrence had devoted a considerable part of his life to what he calls a study of this subject, but which may perhaps more appropriately be called laboring in the collection of the materials relating to it. . . . His faculties lie chiefly in the direction of a collector of materials. He has indefatigable industry, doubtless a good memory for details, and an uncommon power of will; yet he is clearly wanting in originality, in the philosophic quality, in anything approaching a power of striking or condensed expression, and, as a consequence, impeded by defects of a literary style. Either a consciousness of this, or a natural preference for mere labor, had resulted in his passing middle life without offering to the public anything of consequence, though

he had every opportunity, and sufficient ambition. The position of an annotator, in his view of its nature, seemed to be appropriate to him.

The charge that Dana was indebted to Lawrence in any matter involving the expression of original thought, wholly failed to bear examination, and was speedily abandoned. The remaining charges, though far less important and much more difficult to disprove, were that he had inserted many of his notes at the same place in Wheaton's text as Lawrence's corresponding notes, thus making use of Lawrence's plan and arrangement, and the mode by which his notes were combined with the text; that in so doing he had paraphrased many of Lawrence's less important notes, and had made such use as he saw fit of Lawrence's material and citations of authorities, without recourse to the originals or any considerable degree of verification.

Lawrence's claim in these respects was distinctly set forth by him. It was that after the memorandum of June 14 was signed by Miss Wheaton, no subsequent editor had a right to make any more use of his contributions to the 1855 and the 1863 editions of the "Elements" than if they had never been printed, and, being still locked up in his desk in manuscript, had never passed into any one else's hands. The course, he insisted, that Mr. Dana should have pursued in preparing his edition was to use the text of the last American edition prepared by Wheaton himself, that of 1846; and he had no right to use or even consult the text, much less the notes, of either of the subsequent editions. If this position was sound it followed that any resemblance, apart from the 1846 text, which could be traced between the editions of 1855 and 1863, and that of 1865 established a presumption of plagiarism against the editor of the latter edition, which it was incumbent on him to disprove. The burden of proof would thus be shifted from the complainant to the respondent.

It is almost needless to say that Mr. Dana's view of his

rights as an editor and investigator was entirely different, and could in large degree be traced to his training as a lawyer. As a lawyer, whatever in the way of authority or citations of authorities came within his reach was his, whether he found it in the arguments of counsel, in the recorded opinions of the courts, or in the treatises of writers on topics with which he had to deal. To cite references, wherever he could find them, for the guidance of those to whom his argument was addressed was more than his right, it was his duty. If the references were such as he could verify, he might or might not verify them; but, whether he verified them or not, he was at perfect liberty to cite them for information and guidance. They were in fact public property, — a part of the common accumulated wealth of civilized man. In the case of Lawrence's notes he naturally took no other view of the matter. The citations contained in those notes were, in his view, like the citations in Story or Halleck or Phillimore, open to all investigators in the same field; and there was no especial reason why he should abstain from using them; or even why he should, when using, credit them to the author in whose writings he found them.

His method of working he himself described with great particularity and frankness. In order to use the text of the 1863 edition more conveniently, he had a copy of that edition interleaved and bound in two parts. It was not his intention at first to write any of his notes upon these interleaves, but merely to jot down upon them memoranda and marks for his private use; but later he found it would be a great convenience in printing to write his shorter notes on the interleaves, as they could in that shape best be sent to the printer in their proper connection with the text. The longer notes were all written on separate sheets. In preparing the shorter notes, and collecting citations and authorities for all the notes, he thus necessarily had always before him not only the text of the edition of 1863, but Lawrence's notes to that text. Those notes he could hardly have helped

examining, as he felt at perfect liberty to do, making citations from them as from other writers. As he himself expressed it: — "In reading Mr. Lawrence's notes, as in reading other authors, I intended to let no important fact or authority escape me, and in all alike I took some mode of securing that end, by note, memoranda or otherwise; these became material on which I was to act." The entire manuscript of Mr. Dana's copy for the press was preserved at the printer's and produced by him in court. In view of the charges publicly advanced, the supposition naturally was that it would be found largely made up of printed matter containing citations, lists of authorities, etc., taken bodily from Lawrence's notes or other sources. As a matter of fact the four hundred and fifty foolscap pages did not contain a single line of printed matter, except one newspaper clipping on which was a section of a then recent treaty.

All this time, it is to be remembered, Mr. Dana was not making a new book where Mr. Lawrence had made one before. On the contrary, he was re-annotating a common text, — doing over again in fact the very work Lawrence had previously done, at the same points, on the same topics, and with much the same material. Mr. Wheaton had himself exhausted the authorities down to 1846, and the range of new authorities between 1846 and 1863 was narrow. Under these circumstances Dana contended that it was inevitable the two annotators must often cite the same authorities, if the second annotator cited any authorities at all.

Such were the allegations and contentions of the two parties to the suit; but it was not until May, 1869, nearly three years after the complainant's bill had been filed, that the papers were all in the hands of the court and the arguments finished. The array of counsel was imposing, as Mr. Lawrence and the Wheaton family were represented respectively by Benjamin R. Curtis and Sidney Bartlett, the two recognized leaders at that time of the Massachusetts, and, indeed, of the American bar; while Mr. William G.

Russell, who a few years later declined the position of Chief Justice of Massachusetts publicly tendered him by Governor Long, appeared for Mr. Dana. The argument on behalf of the publishers, relating mainly to the memorandum of June 14, was made by Causten Browne. It was six months later still before the two judges composing the circuit court had found time to make the necessary examination of the record and write out a decision. This was at last prepared by Judge Clifford, and delivered September 20, 1869.

The court disposed of the preliminary issues by deciding that the memorandum of June 14 worked a valid and legal assignment of the copyright in the notes of the editions of 1855 and 1863 from Mrs. Wheaton to Mr. Lawrence. Mr. Lawrence's claim, that the copyright thus assigned also covered any portion of the text of either of the editions he had edited, was disallowed. There was nothing in the memorandum which transferred a right to anything outside of his notes to Mr. Lawrence. Upon this point he had failed to make out a case, and Mr. Dana's use of the text of the edition of 1863 was therefore proper and within his legal right as the agent of the Wheaton family.*

It remained to show that Mr. Dana had knowledge of the memorandum of June 14, and so knew, or had reason to suspect, that as agent of those holding the copyright of record he had no legal right to use Mr. Lawrence's notes just as freely as he used Wheaton's text. On this point the decision was based on the familiar rule of law that any act or circumstance which in cases like this puts a party upon inquiry is sufficient notice to him in equity. If Mr. Dana failed to investigate when put upon inquiry, he was chargeable with all the knowledge it was reasonable to suppose he would have acquired if he had performed his duty. When Mr. Lawrence's forty-page letter was sent to him by Professor Parsons, he had the means of information in his hands; if then he did not see fit to inform himself, he forfeited every pretence of defence. Such conduct was equivalent to actual

notice of all the facts he might have ascertained had he read Mr. Lawrence's letter.

The preliminary questions being thus disposed of, the court passed to the consideration of the main issue, that of plagiarism or literary piracy. The question was pronounced one of great intricacy, but the conclusion reached was that, while the work of Mr. Dana contained much matter both valuable and original, yet he had in preparing it so far followed in the footsteps of Mr. Lawrence that he must be declared to have infringed upon his rights. The whole record in the case was then referred to a Master to ascertain and report upon the extent of the infringement; but the demand of Mr. Lawrence that the sale of the edition should be stopped by an injunction pending the examinations by the Master was denied.

While in the absence of any reversal of this decision by a court of appeal it cannot be asserted that it was not sound in point of law, yet it is impossible to read it carefully without being impressed with a sense that it was made to turn upon a very narrow construction of the law of copyright. It was the decision of a "case judge." Instead of approaching the issue in a large way, as befitted a case of novel impression involving the power of one investigator to re-annotate a treatise on law already annotated by another investigator, and to use as a scholar the accumulations of learning and of authorities of the latter in so doing, Judge Clifford followed the precedents established in the case of dictionaries, directories, tourist guide-books, maps and the like. He thus thoroughly belittled the question, and reached a conclusion which, as was subsequently observed by Horace Binney of Philadelphia, in a private note to Mr. Dana, was something new in the doctrine of copyright, "nor with all my wonderings shall I attain to a clear notion of it, without an example of the application of it to facts."

The re-annotating, without infringement of copyright, of any treatise on a subject the learning in relation to which is

limited, would under the decision in *Lawrence vs. Dana* be a most difficult, if not altogether impracticable thing. The law when expounded by great lawyers rarely results in an absurdity. Yet in the *Wheaton* case, if an absurdity was not reached, it was something which greatly resembled an absurdity; and it remains very questionable whether, in the hands of a Marshall, a Shaw or a Gibson, another and wholly different result might not have been reached through a far more conclusive and acceptable line of reasoning. There is, moreover, something offensive to common intelligence in applying to researches of students in the science of international law the rule which might be very fitly applied to the compilers of a directory; and it is hardly to be imagined, for instance, that one astronomer could not lift himself on the researches of another astronomer into yet higher fields of mathematics, without being forced under penalty for an infringement of copyright to prove that every step in his computations and process of reasoning originated in himself.

When in the narrative of Mr. Dana's life I approached the controversy with Mr. Lawrence, I had a very definite opinion, derived from my recollection of the facts as they occurred, — for at the time they attracted my attention to a considerable extent, — that while Mr. Dana had in no true sense of the term been guilty of what could be called plagiarism or literary piracy, yet he had in the preface to his edition of *Wheaton* been distinctly guilty of a discourtesy to the previous editor, and of a statement in regard to the degree of use made by him of the notes of that editor which, if taken literally, could not be defended. A more careful examination of the facts in the case, as developed in its long printed record and seen through a perspective of twenty years, has now led me to revise that opinion.¹ In

¹ In stating the conclusion here reached from a study of the records in the case, ten years after it closed, I am glad at the same time to be able to give the different impression still left as matter of mem-

the light of this examination, I do not see how Mr. Dana could under the circumstances have pursued any course other than that which he did pursue. The statements¹ contained in his preface as to the use made by him in his edition of the notes in the previous editions were literally true, and had the opinion of the Circuit Court, with the rules laid down for the guidance of the Master to whom the case was subsequently referred, been known by him in advance, he could have avoided any possible question only by declining to assume the editorial task. Under the principles enunciated and the rules laid down in that decision he could not even follow in the steps of his predecessor. His investigations must, so far as that predecessor was concerned, be original. He was not at liberty to make use of the work of Lawrence as he made use of the works of Halleck and Woolsey and Phillimore.

Under such circumstances it would have been necessary for him, if he did his work thoroughly, to pursue one of three courses:— He must, as Mr. Lawrence claimed he should have done, either have gone back to Wheaton's last edition of the "Elements," that of 1846, and annotated

ory in the mind of Mr. Lothrop. It will be found in his letter, already referred to, printed in the Appendix to this volume. It coincides with my own earlier understanding, as expressed in the text; and even now I have no doubt that another man, by the exercise of a little judicious flattery and a certain amount of tact, might, by influencing the decision of the court, have escaped much of the trouble Mr. Dana had. But this was not his way. Nor can it reasonably be inferred from the record that a soft word, or even several soft words, would to any appreciable extent have even mollified Mr. Lawrence's wrath, much less turned it aside. He was, if the record of the case can be relied on, no less implacable than untiring.

¹ "It (the present edition) contains nothing but the text of Mr. Wheaton according to his last revision, his notes, and the original matter contributed by the editor." And again, "the notes of Mr. Lawrence do not form any part of this edition. It is confined, as has been said, to the text and notes of the author and the notes of the present editor."

that, abstaining from even reading, much less carefully consulting, the notes of the preceding editor; or, he might have consulted those notes, stating at the same time in his own notes that, in addition to the authorities there cited by him, certain other authorities would also be found in the notes of the preceding editor; or finally, he might at his peril have cited the authorities in Lawrence's notes to which Lawrence alone had access, crediting them to him.

Had he followed the first course he would necessarily have had to cut himself as an investigator off from what was recognized as the largest accumulation of material relating to the subject of international law which was to be found in the United States, and possibly in the world; for as a gathering place or store-house of references Lawrence's notes could be compared only with the work of Phillimore.¹ Whatever his opinion of the value of the original matter in such a receptacle of the indiscriminate results of industrious research might be, it was out of the question to suppose that any investigator, above all one of Dana's habits of mind, would voluntarily cut himself off from such a convenient source of information. Neither is it supposable he could be called upon so to do.

The second course suggested, that of referring in every case to Lawrence for all citations made from Lawrence, was out of the question. The eighth edition of Wheaton's "Elements," like all the previous editions, was supposed to be complete in itself. Had reference been made throughout it to additional authorities quoted in the seventh edition, it would have been necessary for every investigator to have easy access to the seventh edition, as well as to the eighth.

¹ The comment made by Sir Vernon Harcourt on Phillimore's book was equally applicable to Lawrence's notes: he described it as "a useful compilation, in which, however, amidst the heterogeneous pile of indiscriminate and undigested material, in which the good, bad and indifferent is garnered up with laborious impartiality, an inexperienced reader is not unlikely to lose his way."

In view of the fact that the work was largely published for the use of diplomatic representatives of the United States government, often at remote points in foreign countries, this would obviously have been a fatal defect in the plan of the book.

Finally, had Mr. Dana as editor pursued the third course suggested he would have brought himself distinctly within the rules laid down by the court in the decision of Judge Clifford. Even if he credited to Lawrence the authorities quoted from Lawrence, the mere quoting them would, for reasons already referred to, be a presumptive infringement of the rights of Mr. Lawrence.

Under these circumstances, while, in the language of Mr. Dana's preface to his edition, it was true the notes of Lawrence did not form any portion of that edition, it is not easy to see how he could have pursued in respect to those notes any course different from that which he did pursue. Judging from the tone of his letters and his language when on the witness stand,¹ it is most improbable that any

¹ "Some time after the unfortunate *mésalliance* of Miss Wheaton with Mr. Little." — *Record*, p. 70.

"Mrs. and Miss Wheaton . . . repeatedly stated their apprehensions that the insisting on the preservation of the memoir would be offensive to Mr. Little, and that poor Abby, as they said, would be made to suffer for it" — *Ib.* p. 76.

"So far as regards my relations to the [Wheaton] family up to the time of the discovery of this conspiracy, I supposed they were of the most friendly nature." — *Ib.* p. 88.

"I felt excessively indignant at what I considered scarcely less than a swindling transaction." — *Ib.* p. 98.

"Assuredly I am most anxious not to be compelled to pursue further the ungrateful labor imposed on me by the necessity of vindicating myself from the dastardly attacks of assassins." — *Ib.* p. 562.

"The references to authorities in Dana which are used as the basis of any commentary by him, in a vast majority of cases are copied apparently directly from me." — *Ib.* p. 127.

"On several occasions long lists of authorities . . . have been cited, but I have been able in every case to trace them to Story's Conflict of Laws, from which they seem to have been servilely copied." — *Ib.* p. 127.

merely courteous and complimentary references to his work, either in the preface or the notes of Dana's edition, would have exercised the slightest mollifying influence upon Mr. Lawrence. His well-defined purpose was that no edition of Wheaton's "Elements," unless annotated by himself, should be issued, under the pains and penalties of infringement of copyright; and to that end he directed his own ingenuity and legal acumen, and all the ingenuity and legal acumen he could command in others.

To return to the decision of the Circuit Court. The judges, of course, did not undertake to enter in their opinion into any review or comparison of the merits of the respective editions; but as the result of comparisons made by themselves, as well as of those made by experts, the conclusion was reached that "many of the notes" in the Dana edi-

"In general, however, without going beyond them for new matter, he [Dana] has paraphrased my notes, not unfrequently mistaking their scope as well as the points to which the references were cited." — *Ib.* p. 128.

"There are some cases of paraphrase which show such a gross ignorance of general as well as of diplomatic history that it is impossible that the person who compiled the notes could ever have resorted to the original authority, or that he could have fallen into the error in any other way than by attempting, by changing my words, and paraphrasing the sentence, to avoid the charge of plagiarism." — *Ib.* p. 128.

"It is impossible to conceive of a grosser blunder than is contained in this passage from Dana." — *Ib.* p. 130.

"Another case of gross ignorance or carelessness if not an effort to pervert history for partisan purposes is to be found in Dana's note 84." — *Ib.* p. 130.

"He [Dana] had supposed that by substituting one synonymous term for another he could escape the punishment for piracy." — *Ib.* p. 131.

"When he abandons me, Mr. Dana constantly falls into the most egregious blunders." — *Ib.* p. 131.

"The total misconception of the whole object of Mr. Wheaton's mission to Copenhagen is so gross, and manifests such utter ignorance of one of the most familiar matters in American diplomatic history . . . that I cannot refrain from alluding to it." — *Ib.* p. 134.

tion did "infringe the corresponding notes" in Lawrence's two preceding editions, and that Dana in his edition "borrowed very largely the arrangement of the antecedent edition, as well as the mode in which the notes in that edition are combined and connected with the text." It was pronounced impracticable to give in the decision "detailed specification of the instances of infringement as shown by a comparison of the two books," and no attempt so to do was made, but in accordance with the settled practice in equity in cases of "voluminous works of a complex character" containing, as in this case, much original matter mixed with the common property, the cause was referred to a Master in chancery to state the facts, together with his opinion, for the consideration of the court. Twelve rules for the guidance of the Master in making his examination were laid down, the most essential points of which were: —

6. That the notes in (Dana's) edition, consisting wholly of citations found in the corresponding notes of (Lawrence's edition) do infringe his rights, though many of them are unaccompanied by the extracts collected and presented in the next preceding edition.

7. That the notes consisting of authorities or collections of authorities copied in like manner as described in the preceding proposition, and without remarks or comments, do also infringe (Mr. Lawrence's) rights, though they are found inserted in, or prefixed or appended to, notes otherwise not objectionable.

8. That notes of which the whole or some substantial and material part is condensed from the corresponding notes in the preceding edition, or from the extracts therein printed and published, without any marks of original labor, or of any such labor except the study of the note copied and adopted, do also infringe (Mr. Lawrence's) rights, as explained and defined.

10. That notes partly original and partly copied do not infringe, except for the matter copied.

Finally, as the charges of infringement were numerous and of a character to require extended examination before the extent of the infringement could be ascertained, the court, in accordance with the general rule in such cases, refused to grant the injunction asked for on Mr. Lawrence's behalf until after the report of the Master had been filed and the extent of the infringement had been fully determined.

Mr. Henry W. Paine was selected as Master. Except in one important respect no better selection could have been made, for Mr. Paine was at the time of these proceedings a most accomplished member of the Suffolk bar. Born in Maine, where he achieved his first professional successes, he moved to Massachusetts, when already in mature life, in order to find a larger professional field. No member of the legal fraternity in Massachusetts stood higher in the estimation of such portion of the public as was acquainted with him than Mr. Paine. A man of good learning as well as high personal character, he had, besides a fine sense of humor and knowledge of human nature, sufficient literary skill to enable him to pass intelligently on an issue involving the charge of plagiarism. Unfortunately, with all these admirable qualifications for the task now assigned to him, he was, so far as Mr. Dana was concerned, open to one of the most important possible objections, — he was an incorrigible procrastinator. A reference to him was the next thing to a reference to the day of judgment. This was peculiarly unfortunate for Mr. Dana, inasmuch as the court by its decision had left him in a trying position, — he stood convicted of plagiarism and literary piracy, but with sentence deferred until the extent of his misdeeds should be definitely ascertained. It might amount to nothing at all, or it might amount to a great deal; but until, through the report of the Master, it should be definitely ascertained whether it was one or the other, he was exposed at any time to attacks almost impossible to meet. While the public ear readily takes in vague general impressions, it does not care to hear long explana-

tions and defences; and Dana was in this case opposed by a vigilant and active enemy who well knew how to extract every advantage from the situation. Nor, as will presently be seen, when opportunity offered, did he fail to do so, and that effectively.

To Mr. Paine all the voluminous pleadings and papers in the case of *Lawrence vs. Dana* now went, and the whole wearisome investigation had again to be gone over before him. I well remember meeting Mr. Dana in his office the very day, I think, he first learned of the results reached in the opinion of the court. Though I had known him long and well, and had been witness to his bearing under many trying conditions, never until then had I seen him really discouraged and disheartened. He made no effort to conceal his feelings. That the decision was against him, though sufficiently mortifying in itself, could be borne with and overcome,—but that which evidently weighed upon and oppressed him was the conviction that the long and profitless work of examining his own notes and comparing them with those of Lawrence, and explaining the difference between them, was again to be renewed. For three years the subject had occupied his mind to the exclusion of almost everything else; and now it must be gone over again before a new tribunal. His opponent he realized was implacable, and no less able than determined to weary and wear him out; for in these respects as in all others unlike himself, Mr. Lawrence had unlimited leisure, and, for the work in hand, unlimited money. There was no alleviating feature in the situation. Nevertheless, there was nothing to be done but to gird himself again to the task; and this he did.

My own suggestion then made to him was, as I well remember, that he should decline absolutely to pay any further attention to the case, leaving the Master to reach his own conclusions as the result of an unguided investigation on Dana's side; and that his own best defence should be another and ninth edition of the "Elements," from which everything

open to the slightest charge of copying, paraphrase, plagiarism or literary piracy should be eliminated.

This method of meeting the issue I afterwards learned was at first favorably regarded by Mr. Dana, but the demand for Wheaton's treatise had practically ceased in 1865, with the close of the civil war, and the publishers received the suggestion coldly; for they had been harassed nearly to death by Lawrence's litigation, and viewed with apprehension the well nigh unlimited facilities for renewing it in connection with any future edition afforded him by the wide scope of Judge Clifford's decision. There was also ground for this apprehension on their part; for, in re-annotating a work like the "Elements," it was impossible to avoid all points of resemblance in the "plan, arrangement and combination of the materials" by different editors; and, wherever a point of resemblance occurred, the burden of proof under the decision of the Circuit Court was upon the last editor to show that the results he had reached were results reached through his own unaided investigation. The last editor was in fact called upon to declare, in treating some subject that had already been treated by the previous editor, that he had never read or consulted the notes of that editor; but, if he confessed to having read or consulted them, he could then be compelled to make elaborate demonstration before a master in chancery that he had made only a new use of the matter contained in them, and one wholly original with himself. In any event he was manifestly in the hands of his adversary to the extent of being put to a long, a laborious and a costly defence in a vexatious and unprofitable lawsuit. Under such circumstances it is hardly matter for wonder that Little, Brown & Co. felt small desire to venture a repetition of their experience. The practical result, therefore, as developed in the opinion of the Circuit Court, showed that Mr. Lawrence was right in his belief that if the agreement of June 14 was literally complied with he could have no competitor thereafter in the work of editing Wheaton,

and that he had indeed "devised a plan proper and sufficient to practically secure and give to him complete and exclusive control of all future editions" of the "Elements."

The long series of hearings before the Master and his own consequent examinations stretched through a period of eleven years, and it was not until January, 1880, that his report in its final amended shape was filed in the clerk's office of the Circuit Court. During the interim I remember meeting Mr. Paine one day in the street and stopping to exchange a few words of greeting with him, in the course of which allusion was made to *Lawrence vs. Wheaton*. I asked him how he was getting on. Prefacing his reply, after his customary manner, with a humorous turn, he intimated that his progress was not rapid, and that in this respect the case of *Lawrence vs. Wheaton* was in the same position as some dozen other cases then before him as Master. Being, as he well knew, interested as a friend of Dana's, I ventured then to inquire as to the general conclusions he had reached. I perfectly recall his reply. So far as citations and references were concerned, he intimated there was more or less resemblance and even similarity between the two works; but, he added, viewed as literary results, the two books were as wide apart as the poles. To use the substance of his own language, there was no point of resemblance between them "except that they were both printed on paper and bound in calf." Later, when the case had passed out of his hands and he no longer felt under judicial restraint, Mr. Paine did not hesitate to express it as his opinion that Mr. Dana had in the *Wheaton* litigation been a victim of the bitterest and most unrelenting persecution he had ever known.

The Master's report was first deposited in the Circuit Court on June 2, 1877. Mr. Lawrence's counsel then entered an objection to it as not being properly filed, the Master not having submitted his draft to the parties before filing, and given them an opportunity to present objections

and be heard. Subsequently both parties filed exceptions to it, Mr. Lawrence's counsel terming it "the document entitled the Master's report." More of the law's delays then occurred, during which Mr. Dana, in the autumn of 1878, went abroad with his family, having finally abandoned the practice of his profession. As the result of much correspondence the report was in July of the following year returned to Mr. Paine by direction of the court for further proceedings, and Mr. Dana came back to America for the purpose of closing the hearings. These began on the last day of July and were continued through August. It was Mr. Dana's last appearance before any legal tribunal, and, though himself a party to the suit, the familiar atmosphere of the court-room seemed to rouse in him a flash of his earlier ardor, for, writing to one of his daughters on the 31st of July, 1879, he said:—"I began the Lawrence case this morning, and we are to go straight on until it is finished. To my surprise, I really enjoyed it—the old war-cry and the cuts and slashes of the 'heady fight' excited and interested me." The hearings consisted for the most part of attacks on the report by the counsel for Mr. Lawrence, and a defence of it by Mr. Dana. It was at last filed on the 14th of the following January.

There then remained nothing for the court to do but to hear both parties on the exceptions to the report, and, after adopting amendments, if any, to make a final decree. The case could then be appealed to the Supreme Court, if either party to it so desired. As to all the matters of fact involved, the report of the Master was, like the verdict of a jury, final, in the absence of clear proof of error.

The report amounted to a complete vindication of Mr. Dana, inasmuch as the one hundred and forty-six instances of alleged gross plagiarism and servile copying had dwindled down to fourteen instances of technical infringement of copyright, under the rules laid down in the opinion of Judge Clifford. All of the infringements were in the use of

the material collected by Mr. Lawrence, consisting in some cases of extracts from manuscripts to which Mr. Dana could not readily have access. None of the matter in Mr. Dana's notes claimed to be original was found to have been taken from the notes of Mr. Lawrence.

The litigation here ended. No appeal was taken to the Supreme Court, or other and final decision rendered; while, so far as the publishers were concerned, all but the last remnants of the edition over which the contest was being waged had been sold and disappeared from their shelves long before the injunction asked for by Mr. Lawrence had been denied by the court. The only issue remaining was that of reputation involved in the charge of plagiarism and literary piracy; and so the case rusted out from a lack of interest in the parties to it, Mr. Lawrence dying in March, 1881, and Judge Clifford following him in July.¹

The editions of both Lawrence and Dana remain, and must be judged by themselves. So far as any question of plagiarism or literary piracy is concerned, any conclusion the biographer of either Mr. Dana or Mr. Lawrence might reach would always be open to question; but the report of the Master must be taken as final. As matter of record and of justice to Mr. Dana there is accordingly appended

¹ The following extract from a letter which Mr. Dana not long before his death wrote to James Russell Lowell has much significance; but it is to be remembered that Judge John Lowell, a jurist of unquestioned authority as well as an old personal friend of Dana's, was also on the bench of the Circuit Court during the trial of the Wheaton case. That there was little love lost between Mr. Dana and Judge Clifford admits of no doubt. Dana wrote to Mr. Lowell, referring to the opinion in the Wheaton case: — "Clifford hated me because I was his *Republican* District Attorney, and reversed him before the Supreme Court in the Prize Causes, and never flattered him, as most of the bar did, as they knew their interests and that of their clients required it; and I fear I treated him too much as I felt towards him, as has been too much my way with people, and which is not Christian nor wise, and has in it an element of self-sufficiency which we think is courage and due pride."

to this volume a full statement, drawn from the report, showing exactly the points in which under the rules laid down for his guidance Mr. Paine thought Mr. Dana had made an unjustifiable use of matter contained in the notes of Mr. Lawrence. The statement speaks for itself.

Since 1865 there has been but one new version of Wheaton's "Elements" published, the English edition of 1880, prepared by A. C. Boyd. So far as the work is used in America, — and it is largely used still both as a text-book and an authority, — the two editions consulted are Lawrence's edition of 1863 and Dana's edition of 1866. They are both long since out of print, and the one, therefore, is as accessible as the other. There is little reason to think that the last edition, in the opinion of those most competent to judge, suffers in a comparison with the two preceding editions.

CHAPTER VII.

THE RECONSTRUCTION PERIOD. — THE ESSEX PROTEST.

As the record of Mr. Dana's life is of interest only as told by himself, the events of the remaining years can be passed over rapidly; for during those years he kept no diary, nor did he carry on any considerable correspondence. When the civil war ended he was in his fiftieth year, and he felt the time had come when he must either enter into public life or abandon the idea of ever doing so; and a political career, as I have already said, was one of the things which Dana had always looked forward to. But, clearly, the time had now come when he must either dismiss this dream or else take immediate steps to make it a reality. He had no more years to lose.

The question before the country was that of reconstruction. Upon what terms and conditions were the conquered States of the late Confederacy to be readmitted to the Union? — Andrew Johnson was President; and Mr. Johnson during the summer of 1865 and the following winter succeeded in so embroiling matters that political excitement was at fever heat, and indeed almost as great as at any time during the war. The waves of civil commotion had scarcely begun to subside.

At first the Republican party, having carried the country in triumph through the struggle in the field, was divided on the issue of reconstruction. One portion, and a very influential portion of it, was disposed to deal with the South in the most magnanimous spirit, giving to the federal constitu-

tion a somewhat states-rights construction. They claimed that the rebellious States had never been out of the Union at all. It was true, they had for a time been under the complete control of an insurrectionary mob; but this mob had in turn been suppressed by the national government. As soon, therefore, as the insurrection — and it was an insurrection of individuals — was quelled, and the exercise of war powers no longer necessary, the States in which the insurrectionary movement had taken place were again entitled as of course to all their rights and privileges in the Union, and to representation in both houses of Congress.

A grave constitutional question was involved; and, if this view of it was correct, reconstruction became almost exclusively a work within the province of the executive. The President, as head of the army and the exponent of the war power, had to decide and announce by proclamation when the insurrection was suppressed, and further occasion for the exercise of war powers had consequently ceased. When this was done, the States in which the insurrection had existed would at once be rehabilitated. Meanwhile, so far as the results of the war were concerned, it would devolve upon the President not to proclaim the insurrection at an end until those results were properly assured. And even when the executive had performed its part, it remained for the legislature to approve and confirm the result reached; for the senators and representatives from the States lately in rebellion could not be admitted to their seats in Congress except by the consent of the bodies to which they had been elected.

This was the plan of reconstruction foreshadowed by Lincoln between the time when the approaching collapse of the Confederacy became apparent and his own taking-off. It was a large and magnanimous policy, — the policy of the statesman and the Christian; but it is most improbable that even in his hands the work of carrying such a policy into practical effect would have failed to encounter fierce oppo-

sition. The war was recent, and the wounds inflicted by it still raw ; the victorious side was after all composed of men, and in those men there was naturally a great deal of unregenerate human nature. The policy which the extremists desired to see put in practice was something very different from that just outlined. "Thorough" was the word with them. They had no faith in the South or in the former slaveholders, or in evincing any magnanimity towards them. They did not believe in the acceptance by the Confederates of the results of the war, except in so far as they were sternly compelled to accept them. The public men of the Charles Sumner and Thaddeus Stevens type demanded, therefore, that the States lately in rebellion should be held in stern military subjection until an entire change of heart should take place in their inhabitants ; but if the subjection was to be relaxed, and those States were to be permitted to return into the Union, it was insisted that they should return with a population of enfranchised blacks and disfranchised whites.

While Dana was a Federalist, he was far from being an extremist. During the year 1865 he had a long and interesting correspondence with Mr. Adams on the reconstruction issue, in which they wholly failed to reach an agreement. He wrote to Mr. Adams as follows : —

[1865. *June 3.*] I desire in this settlement of affairs in the rebel States, that the greatest care be taken to preserve the bounds of *civil* authority. The States must be assumed to exist. The people must make the constitutions, and the state authorities must exercise the functions of States. It would be an irreparable mischief for Congress to assume civil and political authority in state matters, but it is not an irreparable mischief for the general government to continue the exercise of such war powers as are necessary until the people of those States do what

we in conscience think necessary for the reasonable security of the republic and public peace hereafter.

This was in answer to a letter from Mr. Adams, written from London and dated the 19th of April, which contained the following:—“The President’s proclamation as well as most of the plans of reconstruction of the state authorities which were offered in Congress seem to me to rest upon a mistaken idea of the powers vested by the Constitution. As President, Mr. Lincoln unquestionably had no power to emancipate a single slave. Neither had Congress the smallest right in my mind to attempt to meddle with the construction of an existing State. It is only as the commander of the armies of the United States that Mr. Lincoln has the means of doing those things necessary to reestablish order in regions where it has been violently overturned. He cannot meddle with a State as such, nor prescribe any permanent form of government for it. But he may exercise an authority which will enable the citizens of the State to reestablish the system which has been subverted for the moment. After that is once done his power ceases and the machine returns to its original movement.”

But if Mr. Dana did not agree on this issue with his friend Mr. Adams, he up to this time failed still more to agree with his other friend Mr. Sumner, for, referring to his attitude, he wrote to the former in the same letter of June 3d, from which an extract has already been taken:—

Now, *quo modo?* You will read Sumner’s eulogy on Lincoln. He calls on the general government to take jurisdiction over the question of elective franchise in the rebel States. He ignores the specific provision of the Constitution and the fundamental principle. He is satisfied with the fallacy that if, in time of war, the government in insurgent territories permits the voters to vote, subject to a test of an oath of allegiance, it can take jurisdiction to

determine who shall have permanently the right to vote in the State after it is restored to its functions as a State. He was so purblind as to put the negro's right to vote on the maxim that government derives all its just powers from the consent of the governed! What condition are we in to assert that maxim when we are forcing, by a four years' war, a Constitution eighty years old on a resisting people? But Sumner, who has high and great instincts, and great moral energy, never had any logic, could never see a fallacy on his own side, could never see the joke against himself. He is a good seer, but a bad guide. He never did care a farthing for the Constitution, is impatient of law, and considers his oath to have been not to the Constitution, but to the Declaration of Independence. If the negro votes he does not care how the result is obtained or what else may follow.

Dana's mind was naturally subtle. He was always ready to devise some ingenious logical process for avoiding either horn of the dilemma, just as in "the Prize Cases" he showed the Supreme Court how the United States could at the same time be carrying on a war, with all the rights incident to war, so far as the Southern Confederacy was concerned; and yet, so far as foreign powers and neutrality were involved, it was no war at all, but only a local insurrectionary movement. But when the issue was decided in the field, — when Lee had surrendered at Appomattox, and Davis was a prisoner in Fortress Monroe, — the "local insurrectionary movement" hypothesis was quietly, though somewhat contemptuously, relegated to the receptacle of things for which no further use exists. Reconstruction then became a question of practical politics, and the provisions of the Constitution had to be curiously scanned and construed anew. The war power admitted of the desired development, and Mr. Dana was again equal to the occasion.

On the 21st of June, 1865, an important meeting was held in Faneuil Hall to consider the subject of the reorganization of the States lately in rebellion, and this meeting issued an Address to the country which attracted much notice. It was prepared by Mr. Dana, and set forth clearly, calmly and succinctly the conditions and requirements of the hour; but the key-note of this Address was contained in the speech of Mr. Dana advocating its adoption by the meeting. He said, — “ You look in vain in the municipal rules of a constitution to find authority for what we are doing now. No, we stand upon the ground of war, and we exercise the powers of war. . . . I put that proposition fearlessly. *The conquering party may hold the other in the grasp of war, until it has secured whatever it has a right to require.*” This idea was further incorporated in the Address in these words: — “ Having succeeded in this war, and holding the rebel States in our military occupation, it is our *right and duty to secure whatever the public safety, and the public faith require.*”

At this distance of time it is not at once apparent how, except in degree, the position taken by Mr. Dana in June differed from that taken by Mr. Sumner in April, so sharply criticised in the letter to Mr. Adams. Mr. Sumner had then, according to Mr. Dana, ignored a “ specific provision ” of the Constitution; and Mr. Dana now, not over-respectfully, swept the whole organic law aside, until a more convenient occasion, as a mere collection of “ municipal rules.” None the less Mr. Dana at the time felt great pride in the Faneuil Hall speech and Address, and always afterwards looked upon it with satisfaction; for in it he believed that he, and he first of all, had blazed out the path along which reconstruction must move, and, as a matter of fact, subsequently did move. He called it his “ grasp of war ” speech, and thus refers to it in letters to his wife: —

[1865. July 16, Sunday.] My “ Address ” has attracted great attention in all parts of the land, and

my speech and Address together are regarded as the leading off in this movement, and furnish the text for the *pros* and *contras* of politics. The question seems to be whether people agree with Mr. Dana. Especial praise has been given to the paragraph beginning, "Appeals may be made," and ending "by his side." The "Boston Post" paid me the compliment to put the paragraph *verbatim* in the mouth of Webster in an imaginary conversation with Horace Mann. . . .

[August 16.] Dined at Gray's last night with the Marquis de Chambrun, who married a great-granddaughter of Lafayette, an intellectual man and wonderfully informed on our political history, with insatiable curiosity to know it all. He thinks my speech at Faneuil Hall and the Address the turning point of our politics; says he began to translate the Address, when he found it was printed entire in the French papers, translated from the "London Times," which printed it.

And when early in 1867 the reconstruction act which brought into existence what were afterwards known as the "carpet bag" state governments was passed over the veto of the President, Mr. Dana wrote as follows to Mr. Adams:—

[1867. April 14, Cambridge.] I must shock and dismay you by expressing my great satisfaction in the Reconstruction Bill. It goes down to the *hard pan*. It builds up upon the rock. Until that was done, we were drifting and trifling, annoying and guerrillaing the South, to little purpose. Of course you would expect me to agree to it, because it is on the principle which I had the honor to be the first to lay down in

my Faneuil Hall speech of June, 1865,— what my flattering friends call my “Grasp-of-war Speech.” Not that my speech had any agency in the result, but that the result justifies it.

It is needless to say that these views of the overshadowing political issues of the day were very far from being in accord with the line of action which President Johnson was then in the far too constant habit of referring to as “my policy.” In the hands of his clumsy, ill-tempered and intemperate successor the scheme of reconstruction devised by Mr. Lincoln had become a complete wreck. The country was swept back to the verge of civil war, with the final result that the whole delicate work of reconstruction was taken out of the hands of the executive and assumed by the legislative department. This was in exact accordance with Mr. Dana’s views, or, as he wrote to Mr. Adams :—

[1867. *April* 14. “What they [the States of the Confederacy] are called upon to do relates not to the temporary exigencies or authority of war, or mere belligerent occupation. If it did, the President might do it. It goes to the basis of the permanent civil and political systems of the States, and the law-making power of the nation must determine what we shall require them to do, and when and how. The proper power—the people—in amending the Constitution, and by the law-making power, has determined just what the States *must do*, and prepared a *modus operandi*, and in the mean time governs them as under military or belligerent occupation.

The office of District Attorney was one which Mr. Dana had always held at a personal and professional sacrifice, nor were there public reasons for his remaining longer in it. It had again become a mere department of criminal prosecution. Under any circumstances, therefore, Mr. Dana

would when the war issues were finally settled probably have resigned it; and he now gladly seized the opportunity of doing so on the broad ground of divergence of political opinion, which he expressed as follows in his letter of resignation addressed to Mr. Seward:—

OFFICE OF U. S. DISTRICT ATTORNEY.
BOSTON, *September 29, 1866.*

SIR, — Returning from an absence in Europe, kindly allowed me by the government, I find a critical state of public affairs, in which I understand that the President expects of those who hold civil office sympathy with the opinions and sentiments he has of late expressed, and coöperation in the measures he has suggested, on those important points as to which he is at variance with Congress.

My sojourn abroad has given me, I think, opportunity to consider these subjects with something of freedom from local perturbations and contagious excitement, and I have endeavored to make use of it. I find myself unable to accord that sympathy and coöperation, and respectfully request you to place my resignation in the hands of the President. . . .

Mr. Dana now felt a strong desire to enter public life. The political issues before the country were large and, to him, inviting. He longed to follow the path marked out in his “grasp-of-war speech,” and possibly, as he felt the capacity within him, greatly to influence great results. The ambition was both natural and laudable; but unfortunately no opening offered. Sumner and Wilson were in the Senate, — the body in which he and his friends felt he could exert himself to the best effect, — and the single seat in the House of Representatives to which he was eligible was occupied by Samuel Hooper; nor, under the usage which makes it a recognized principle in our unwritten

political law that a representative must be a resident of the district from which he is chosen, could he look elsewhere for an opening. Nevertheless, so great was Mr. Dana's desire now to bring himself before the public mind and eye that, remembering his experience and successes thirteen years before in the constitutional convention, he consented to accept a nomination as one of the representatives of Cambridge in the Massachusetts legislature; and this position he held for two successive years. During the first year he was naturally the most prominent personage of the body of which he was a member, and exercised much influence in it, for, while serving as chairman of the Committee on Harbors, he held in debate an independent position. The repeal of the usury laws of Massachusetts then became matter for discussion. That this law should be stricken from the statute-book had always been tacitly accepted as something hardly within range of reasonable anticipation. It had been handed down in Massachusetts from the earliest settlement, was of Biblical origin, and was ordinarily regarded as one of the pillars of civilized society; for without some law fixing a legal rate of interest, it was popularly supposed the borrower would be completely at the control of the lender. When this question came up, Mr. Dana contributed to the debate one of the most admirable presentations of the argument against usury laws which has ever been made. Its effect at the time of its delivery was great, the repealing measure passing the House of Representatives, to the surprise of every one outside of the State House, by a majority of 43 in a total vote of 197. When published, the fame of this speech went abroad, and it made a deep impression beyond the limits of Massachusetts. It has since been printed repeatedly, and is still one of the documents in use wherever the question of a repeal of usury laws is under discussion.

During his second term in the Massachusetts legislature Mr. Dana was at the head of the Judiciary Committee, which made him the leader of the House of Representa-

tives. As such he was less successful than as an independent member. It was a large popular body, and he had become for the first time a member of it too late in life, and so failed to get into touch with it. He did not find there enough men of the same stamp as himself, and a vague general impression grew up among the members that in some respects he considered himself not quite upon the same plane as themselves; so they dubbed him the "Duke of Cambridge," and the feeling which found accepted expression in this *sobriquet* detracted largely from his influence and power. None the less, all recognized the fact that he did his work with fidelity and unflinching courage.

In the course of the year 1867 Dana was retained by the Law Department of the national government in what promised for a time to be one of the great state trials of history, — the arraignment of Jefferson Davis on the charge of high treason. He was associated with W. M. Evarts. Mr. Davis had, since his capture, been held in close confinement, and it was felt the time had come when he should either be tried or released on bail. The course finally pursued towards him is matter of history, and does not need to be repeated here. That, under all the circumstances, it was the proper, and, indeed, the only course to be pursued no one longer questions. At the moment Dana, as counsel, strongly recommended it; for, though necessarily in any trial which might have taken place he must have occupied a large position in the public eye, he was too genuine a man and too good a lawyer, as well as patriot, to weigh in the balance a little cheap personal notoriety or professional reputation against the almost national ignominy involved in having the last scene of the great civil struggle fought out over a criminal charge against an individual, to be tried before a petit jury of Virginians in the United States district court-room at Richmond.

Nevertheless, as the day fixed for the arraignment drew near, he made his dispositions, and, on the afternoon

of Saturday, the 23d of November, started for Richmond. The little that needs to be said of Mr. Dana's part in this episode is best told by himself in the following letters to members of his family: —

[1867. *November 24, Sunday evening, Richmond, Va.*] I had a pleasant passage to New York, and found the business I expected to do there was soon over, owing to the absence of Mr. Bryant. Evarts was not going on until Saturday morning, and having nothing to do there, and meeting Dr. S. G. Howe, who was going to Philadelphia, I took the noon train with him for Philadelphia, which gave me about six hours there, and a break in the ride.

Dr. Howe was very interesting in his accounts of Greece and Crete, and talked good sense. He had found the warmest welcome among all Greeks, and especially from those who remembered him in the Revolution. His name was identified with it, as he found, somewhat as Stenben and Pulaski were with our Revolution (he did not say this). He says Byron and Felton are idolized among them.

He thinks Sumner has suffered as much as a man can suffer,¹ and has been forbearing and generous. When he left his house in Hancock Street he said to Longfellow, "I have buried from this house my father, my mother, a brother and a sister, and now I am leaving it, the deadest of them all."

. . . Took eleven P. M. train for Washington, which reached at six, Willard's, slept three hours, did business at two offices, called on Sumner, and had chance interviews with Wilson, Boutwell and Butler.

¹ The separation of Mr. and Mrs. Sumner had taken place shortly before.

Sumner is at bachelor's lodgings again, and I spent an hour with him. We talked on all subjects but his own. At last the Marquis de Chambrun came in, bringing M. de Broglie to be introduced, and I left. Chambrun seemed delighted to meet me, and Broglie smiled, but was as undemonstrative as ever.

I think I did some good by my talks with Sumner, Wilson and Boutwell respecting the Davis trial; for the wildest notions were spread through the papers that the trial was to go on at once before Judge Underwood, etc., etc. I was able to give them good reasons for the delay, and for not doing anything to hasten it. . . .

We passed Fredericksburg by midnight, and arrived here at 3.45 A. M. of Sunday, slept until nearly ten, breakfasted, and went to church, which begins at eleven. Jefferson Davis was at church, it being the same to which he always went as President, and from which he was summoned by Lee's telegram that his lines were broken and Richmond must be evacuated. He attracted some attention, and the church was full, and he was followed, but there was no open stopping to speak to any one. Something of his old proud step remains, but it is a terrible fall. . . .

[*November 25.*] To-day, when the great drama was expected, nothing happened. It was understood and reported that Chief Justice Chase was to be here, and to charge the grand jury, and the court was postponed until 2.30, to await his arrival.

The train came without him, and a telegram came to the district judge from him saying that he sent papers, etc., by mail, which would arrive Tuesday morning. So the court adjourned to to-morrow morning.

Evarts and I spent our day in our room making preparations on the law and the evidence, and did not go to court at all. We have been reading over a mass of Jefferson Davis's MS., letters, orders, etc., some quite interesting, just before and after great events, to extract the proper matter for proofs.

After dinner we took a walk with Judge Underwood to see the house in which Charles I. Marshall lived, the "Monumental Church," so called because built on the spot where the theatre was burned in 1861, it has a monument with the names of those who died there. Then to the "African Church," the largest in space and sitting room, where Davis made his last speech, in which he said that Lincoln and Seward, in the Peace Conference on the James River, did not seem to understand — what the South must teach them — that they were talking to their masters.

To-morrow the charge to the grand jury will be made by Judge Underwood, the ceremony of Davis's appearance, and a postponement. In the mean time the Washington press speaks of the trial as certain to take place, — perhaps the government encourages that line of report for reasons of its own.

Mr. Dana's second term in the Massachusetts legislature expired in 1866, nor did he seek a reelection. The experience had sufficed. Nevertheless, in the autumn of that year he came once more before the political public. General Benjamin F. Butler then represented the Fifth Massachusetts district. Leaving the army with the stigma of the failure at Fort Fisher upon him, and engaged in a bitter controversy with General Grant, — after the death of Mr. Lincoln easily the most popular public character in America, — General Butler had, with a buoyancy all his own, risen above a combination of adverse circumstances which would

have sufficed to work the lasting repression of any other political character, and, disregarding all rule and usage in that respect as in all others, had come forward at the election of 1866 as a candidate for Congress in a district in which he did not live. The Fifth District was made up chiefly of towns in Essex County, and General Butler was and always had been a citizen of Lowell, in Middlesex. But the seat for the congressional district in which Lowell was included was then firmly held by Mr. Boutwell, and so General Butler bethought himself that he owned a summer residence in Gloucester; this sufficed for him. He came forward as a candidate of the Republican party in the Essex district, and was triumphantly elected. In the House of Representatives he was indisputably a leader, but his course was always violent and reckless. During the winter of 1868 he had been prominent in the Andrew Johnson impeachment proceedings, and had, indeed, been that one of the managers of the trial on the part of the House who had, almost as a matter of course, assumed the conduct of the case. So far there was nothing in his line of conduct which would have brought him into disfavor with any considerable portion of a Republican constituency. It was not so as respects the financial policy with which he identified himself; for, as early as September, 1867, he had come out with an extraordinary doctrine to the effect that United States bonds were payable at maturity in what were popularly known as "greenbacks," — that is, United States legal tender notes, then circulating at a large discount as measured by gold. In other words, he contended that it was proper and just, and in strict legal conformity with the contract, for the government of the United States to discharge one of its paper obligations, bearing interest payable in gold, with another paper obligation which bore no interest at all.

In the summer of 1868 the question of reconstruction had been in some degree settled by the passage of the act of the previous year, and the politicians were eagerly, as

well as anxiously, looking about for what was likely to prove the next subject of popular discussion. The public debt naturally suggested itself to them; for the burden of this debt seemed heavy, and the terms under which it was contracted had been hard. When, therefore, a cry, which amounted, in fact, to "Down with the bondholders!" was raised, the Democratic party took it up, and in the clamor which followed a feeling of alarm for the national credit took possession even of the most sanguine. General Butler then made himself particularly conspicuous, in his peculiar way, through his connection with a resolve which was introduced into the House of Representatives instructing the committee to whom the subject was referred to bring in a bill reducing the rate of interest on the government bonds by a direct tax of ten per cent.; and this resolve he carried through during the closing hours of the session. He thus stood before the country as the avowed and unblushing exponent of financial repudiation.

In Essex County there was a large and respectable class unwilling to be represented by a man entertaining, much less avowing, these views; which they further averred were in direct conflict with the principles of the Republican party as expressed in the creed set forth by the convention which had just nominated General Grant for the presidency. General Butler accordingly was not in good standing with them as a Republican, and they cast their eyes about for a candidate with whom to oppose him. While no one residing in the district was believed to be both willing and able to make head against so formidable an opponent, Mr. Dana, like General Butler, had a summer residence on the Cape Ann seashore, and, it will be remembered, he had represented Manchester in the constitutional convention of 1853. Accordingly, there was among the Republican recusants a general desire expressed that he should be their candidate.

A convention was called to be held at Salem on the 5th of October, and by this convention Mr. Dana was nominated

on a platform in which, while unshaken loyalty to the principles of the Republican party was expressed, an issue was distinctly made with General Butler on the question of national faith and repudiation. Mr. Dana appeared before the convention and made a speech of acceptance. The campaign which followed attracted wide-spread public attention. At first it was confidently believed Mr. Dana would secure the votes of at least a large and respectable minority, and certainly the fight on his part was most gallantly maintained. He canvassed the district thoroughly, postponing during several weeks all his professional engagements, and devoting himself solely to political work; but he was left—and he never afterwards forgot it—by those who should have befriended him, to maintain single-handed an unequal contest. The attacks made upon him by General Butler were characteristic of the man, and the only criticism to be passed upon Mr. Dana was that he paid to them even the attention he did. In this species of warfare General Butler was not to be excelled, and his references to his opponent's personal habits and peculiarities, his ancestry and his supposed aristocratic tendencies, his equipage, his gloves and his apparel, were no less numerous than, as the result showed, they were telling.

Arguments of this sort when advanced by a man like Butler are very difficult to meet before a general popular audience by a person occupying the position in the community which was occupied by Mr. Dana. The contest began over a question of good faith in the conduct of the national finances. It was difficult to say exactly where it ended, but something may be imagined in this respect from a description of one of the closing meetings in it. A dashing cavalry officer named Kilpatrick, who had, after the war, been sent as minister of the United States to Peru, and who upon his return home developed a faculty for stump-speaking, was induced to come to the district and take part in the campaign in behalf of Mr. Dana. General Butler, after his

customary fashion, at once proceeded to make an issue with General Kilpatrick over some statement of immaterial fact, freely embellishing it with the usual charges of mendacity; and Kilpatrick in consequence challenged the Republican candidate to a joint discussion. This discussion, for reasons which seemed good and sufficient to him, his opponent declined. Nevertheless, all the preparations for such a discussion were at the proper time made at Salem; and, though the day proved inauspicious, the rain falling heavily, the old town, the afternoon before the election, was crowded with people, with whom one subject was uppermost. The following account of what took place at the meeting was written down immediately afterwards by one who was present:—

“At last the chairman (Willard Phillips of Salem, I think) introduced Mr. Dana, who was greeted with derisive shouts, requested to take off his gloves or put them on, I hardly remember which, and he began to speak amid loud cheers for the opposing candidate. He spoke for five minutes — or rather he and the crowd spoke for five minutes — in the following manner:

“MR. DANA. Fellow-citizens —

“THE CROWD. We ain’t yer feller-citizens.

“MR. DANA. Fellow-citizens of Essex —

“THE CROWD. You ain’t from Essex — three cheers for Butler.

“MR. DANA. I come from —

“THE CROWD. Cambridge — Cambridge.

“MR. DANA. Well, now, what county is Cambridge in?

“THE CROWD. Middlesex.

“MR. DANA. And what county is Lowell in?

“THE CROWD. Middlesex.

“MR. DANA. Very good — I come from the same county from which your present representative comes.

“THE CROWD. Three cheers for *him*.

“It was evidently of little use to attempt to make a finan-

cial speech, so Mr. Dana contented himself with saying a few words and reading a 'telling' letter written by Butler some time in 1867, in which he urged that Grant should not be nominated to the Presidency, because he 'had no head and no heart' and was 'impotent to govern.' The letter, however, produced no effect other than more cheering for Butler, and Mr. Dana good-humoredly sat down to give his audience an opportunity to enjoy the 'richness' of the afternoon in General Kilpatrick's oration. Kilpatrick rose and began to address the crowd, reminding them in no very mild language that this was not Texas, but Massachusetts, a State which he had always been taught to respect as the home of free speech, and that if they did not want to hear him they should have stayed away, but as they had come they had better listen to what he had to say; that he had been foully slandered by General Butler, and had challenged him to appear before the meeting that afternoon and prove his charges. Now he wished to know why General Butler was not present.

"By this time the audience had forgotten their previous disgust with the 'renegade,' and had become quite interested in the young cavalry officer and his slandered reputation, and some one of the anti-Butler men plucked up courage enough to cry out 'good,' after which the crowd vociferously applauded the orator to the end of his address. To give you even an abstract of his remarks would be impossible. But I can give you at once a very good idea of the general character of them, and of the general character of the questions popularly considered at issue in the last days of the canvass, by one or two specimens. General Kilpatrick said: — 'General Butler, in his speech at Marblehead, accused me of being an infamous liar, because I reported that on my voyage home from Chili after the Arica earthquake I saw five hundred mummies thrown up on the sand. General Butler says I am an infamous liar because I said that. Now, I did say so, and I say it again; and

what is more, I am going to prove it.' He then took up a book by Squier, whom he called the 'greatest living authority on the ethnology of South America in the world,' and read a statement by the author — the audience listening the while in rapt attention — showing that the story about the mummies, so far from being of necessity an 'infamous lie,' was perfectly credible. . . .

"The orator then showed that the charge brought against him by his enemy that he was an intemperate man was untrue, because he never drank intoxicating liquid of any kind; and, having made a telling hit by a vivid representation of General Butler's 'devious eye,' requested the crowd to recollect that the personal controversy to which they were now listening had not been begun by him, who had endeavored to remove all personal considerations from the canvass, but had been driven into a defence of his own character by the unmanly attacks of his malignant foe, he sat down. The chairman then put this question to the crowd: — 'Has General Kilpatrick refuted the vile slanders uttered by General Butler in his speech at Marblehead?' a question which was answered by an enthusiastic 'Aye,' after which the meeting adjourned."

Party feeling then ran intensely high, and the bitterness towards the South could hardly be expressed, quite overshadowing, in the popular mind, all thought of any financial issue. An idea was prevalent that Butler was needed in Washington, as the expression went, "to fight the rebel brigadiers"; and the hatred in which he was held at the South was perhaps the next strongest argument in his favor. In any event, as the canvass drew to an end, it became apparent that his election was certain. The Democrats, instead of coming to the support of Mr. Dana, which, perhaps, could hardly have been expected, in view of the position of unswerving loyalty to extreme Republican principles which he took, had nominated a candidate of their own, and, as a result of the breach in the Republican ranks, were for a

time not without hopes of his election. There are few things more difficult than to stem the tide in a general election when political feeling runs high; and, with such a tide unmistakably flooding, Mr. Dana had fallen into the error of opposing himself to the regular candidate of the predominant party on a single and narrow issue. Accordingly, as the day of election drew near, one by one the recalcitrants fell into line, and, when the poll was counted, Mr. Dana numbered but 1,811 supporters out of a total vote of over 20,000. Those who voted for him were to those who voted for General Butler but as one is to seven. Mortifying and unexpected as the result was, Dana accepted it in his usual manly way, and the morning after his defeat appeared at Salem as counsel in a case specially assigned for that day, before his old friend Horace Gray, then an associate justice of the Supreme Court of Massachusetts.

For the moment it seemed as if the apparent failure of the protest against General Butler had merely served to increase his strength. It did not so prove in the end. That no protest should that year have been made in the Essex district would, under the circumstances, have been discreditable, as indicating that there was no element in the oldest Massachusetts community ready to stand up and be counted against propositions involving shameless public dishonesty. Six years later, on a wholly different issue, General Butler was defeated in the Essex district by a Democratic opponent. Not caring again to test conclusions there, he, in 1876, came forward as a candidate in his own, the Middlesex, district. Again there was an element in that district which was willing to stand up and be counted rather than vote for him, and Dana's friend, E. Rockwood Hoar, consented to be its candidate. It was well known that Judge Hoar did not desire to return to Congress, from which he had voluntarily retired only two years before; yet, — unlike Dana, a typical New England man, — he was a lifelong resident of Middlesex County, and in close touch with its people. He

was of them and with them, and they recognized and respected the strong, salient features in the man's character. Between him and the constituency there was much in common. The result only demonstrated once more the force of party discipline in popular elections, and showed how little cause there had been for mortification on Mr. Dana's part at the smallness of the vote polled for him in the Essex district six years before. Mr. Dana had received 1,811 votes, as against 13,109 votes thrown for General Butler, in a total poll of 20,014 votes; while Judge Hoar received 1,955 votes as against 12,100 votes cast for General Butler in a total poll of 23,434.

Indeed, but few years were to pass away before General Butler had himself cause to appreciate the difficulties in the way of a political character who undertakes to cut loose from party ties. Always a firm believer in his own popularity, and confident of results could he but get himself, as the expression went, directly before the people, in the presidential canvass of 1884, having, in the mean time, again passed over from the Republican to the Democratic party, he had the temerity to appear as an independent candidate. As such, for three months, he canvassed the country; it was a closely contested election, and his strength was an unknown element. The result showed he had 175,370 votes as compared with 4,875,000 thrown for Mr. Cleveland, and 4,852,000 for Mr. Blaine; while even Mr. St. John, the representative of the Prohibition party, had polled 150,000. Dana, in the Essex contest of 1868, did proportionately better than that.

CHAPTER VIII.

SCOTLAND, 1870. — THE ENGLISH MISSION.

THE result of the campaign of 1868 in the Essex district put an end to Dana's hopes of a legislative career. He had lost the game. He now returned to the practice of the law. He had in 1866 reestablished himself in the same building on Court Square in which was his office at the time of the fugitive slave trials, and, professionally, the years that followed should have proved his harvest time. But now, though cases of importance were continually brought to him, his attention was for the time being almost exclusively occupied in the work, unprofitable both mentally and financially, which devolved upon him in connection with the hearings before the Master in the Lawrence suit. Although he accepted some retainers, and now and then appeared in court, he had neither the time nor the heart for full, general practice. He was, moreover, as he wrote to one of his daughters a few years later, already longing for "one winter of leisure, instead of wearing off the edge of being, in the small contests of a profession, the worth and attraction of which is past." Instead of this "winter of leisure," fast caught in the toils of a vexatious litigation, he was wearing his life away over an issue which involved nothing except reputation, and from which he could expect absolutely less than no return.

In the spring of 1870 he again suffered from indications of overwork and failing health, — high pulse, broken sleep and tremor under excitement, — so he once more visited Europe; and it is pleasant to turn from such dreary topics

as the canvass in the Fifth district and the Wheaton litigation to witness the keen enjoyment with which he once more found himself in foreign lands; for the love of travel was with him ingrained, or, as he had himself expressed it to his wife in a letter written from St. Paul, Minnesota, some years before, — “We ought to have been travellers; had no profession and no home, and roamed over the world together, like two civilized and refined gypsies.”

He reached Liverpool early in August and went at once to Glasgow, and thence “to the Burns country,” walking all about Ayr, Kirk Alloway and Mauchline. “This whole region,” he wrote, “is enchanting. It combines beauty, grandeur and picturesqueness. I have walked up and down the Doon, and crossed and recrossed the ‘auld brig.’” Thence he went to Edinburgh: “I got to Auld Reekie Dundin before dark, having time to see its great points before darkness closed in. It is customary to call it the most picturesque city in Europe; but, after seeing it, one is inclined to call it the only picturesque city. It gives you a new idea of what picturesqueness is. How weary, stale and flat all other cities seem beside it! Last night the castle seemed looking down from the stars.”

On Sunday, the 7th of August, he wrote: — “I was a schismatic to-day, and went to the kirk, to old St. Giles’, the patron saint of Edinburgh. It was a fine Gothic pile, but the Presbyterian reformers have spoilt the outside, and have built up solid walls inside, so as to make it into three places of preaching. A man with black beard, black hair, dark complexion and black gown, with no white at the neck, the Genevan dress, looking like a crow, stood in a pulpit, and did all himself, passing from reading to prayer and sermon, and back and forth without change, in a droning way, for two hours. They have no instruments of music in the kirk, you know. There were two readings, three prayers, and four singings. The people have a silent prayer after the benediction, as we do.

“ As curses he like clothes put on,
Into his belly so,
Like water, and into his bones,
Like oil, down let it go.” — (Psalm 109, v. 17.)

From Edinburgh Dana went north by way of Perth to Lord Kinnaird's place, Rossie Priory, near Inchtute, from whence he wrote on the 11th : — “ I am sitting at the window of my large room, looking over an enchanting landscape, across the Tay, to the hills of Fife, on the south. To the west are the top of Ben Lomond and the range of Lomond hills as far as Loch Leven. It is patched with the dark woods, which you remember, a dark bottle-green with fields yellow to the harvest, to the very hilltops. Lady Kinnaird is practising a choir of some dozen servants in church music in the music-room, and the chime of six bells is ringing softly from the gray clock-tower covered with ivy. Does not this present to your fancy a scene never to be come upon out of Great Britain ? ”

He remained with the Kinnairds five days, writing to his family long descriptions of his surroundings, much as he had described Hursley fourteen years before. From Rossie Priory he passed on to Perth and Murthly Castle with its “ beautiful, sumptuous Roman Catholic chapel. But, at twilight, wandered through the aisles and nave of roofless Dunkeld cathedral, — even in ruins it is worth all the Italian chapels in Christendom.” Walking up the Pass of Killiecrankie he dined at Blair Athol, finding great fault with “ these tiresome hotels, with their *table d'hôte*, and courses, and waiters in black coats and white ties. I long for an inn where I can have my chop and all to myself, with a neat ‘ Mary ’ or ‘ lassie ’ to wait on me ”; and thence went to Inverness and Achnasheen, where he fell in with a Mr. Russell, then Sheriff of Roxburghshire, with whom he “ took a boat, with two Highland rowers, who talked Gaelic to each other, down Loch Maree, the northern rival of Loch Lomond, and generally esteemed the grandest loch in Scotland.

Its mountain is higher, steeper and more striking in outline than Ben Lomond, and its islands are such gems, set in its deep blue waters! — and then the heather, the inimitable heather of the Highlands (you will appreciate it), covering the hillsides and banks with a livery of purple, — every shade, from blushing blue to purpled scarlet. There is something touching, pathetic, in the Scotch lochs and mountains. They are not stupendous or magnificent or adorned, like the mountains or lakes of Switzerland or Italy; but they do interest you and they are so romantic; and then the mountains are right in upon you, overhang you! — and four thousand feet of clear rise from the water is no mean figure. Then the mountain peaks are broken and irregular, with gaps and needles, like the Alps round Chamouny, and there is nothing in nature more attractive than the purple carpet of the heather; and it is peculiar to Scotland, I believe.

“I was so captivated with Loch Maree that I walked back to it the next day, six miles from Gareloch, and spent the exquisite day on its banks, and bathed in its clear waters.”

He next visited the Isle of Skye, where he “finished a week of unbroken enjoyment,” and on the 25th bade adieu to it as “one of the most satisfying spots to the last for wild picturesqueness and traditions and sacred places and superstitions, in the world.” Thence he sailed through the Sound of Mull to Oban, and on the 27th visited Staffa and Iona, and on the 28th wrote: — “To-day I went to the Episcopal church, which was crowded with tourists, a new stone building, in good style; one of the wardens who took round the plate for offertory was Sir Duncan McDonald, in full Highland costume, — tartan, kilts, philibeg and all.”

From Inverarnan at the head of Loch Lomond he wrote on the 30th: — “You will say that I am bewitched by Scotland. I admit it;” and then describes the great enjoyment he had in the familiar trip from the Trosachs down Loch Katrine. “I think,” he said, writing to Mrs. Dana, “you must have felt, in the little you saw of Scott’sh scenery, how great

effects nature often produces with small materials. Hills of from one to three thousand feet in height and a few miles of water, if the hills are steep and wild, with broken summits, and are close upon you, and the loch is winding and studded with islets, and you have bare rocks and deep chasms and dark glens, and rich fertile slopes, and abundant waterfalls, and you have heather and harebells and birch, hazel and rowan; and deep stillness, broken by the fall of water or the cry of birds,—with them, greater effects are produced than by a huge flat lake, and distant mountains. The truth is, Scotland is a picturesque and romantic country, and Massachusetts is not; nor New England, nor the West, with few exceptions.”

“I will not attempt to describe Loch Katrine. My adjectives are worn out, and I have not Roget by me. I can think of one word,—*exquisite*, that may do. Scott had a perfect eye for the poetic and romantic capabilities of scenery. When he selected this region for his *Lady of the Lake* he made his characters and action so consonant with it that they have sunk into it like facts. They are believed to be facts by the common people here. My boatman, a McGregor, pointed out the spot where King James lost his ‘gallant gray,’ and where he stood to wind his horn.”

Returning to Edinburgh on the 1st of September he next went to Dunblane and across the fields by a footpath to Cambuskenneth Abbey and Stirling. — “In a heavy rain, I rode out to Bannockburn, and stood on the battle-ground, on the spot where a stone is preserved where tradition says Bruce planted his standard. The battle was fought almost under the walls of Stirling Castle, not more than two miles off. I had my usual luck; for, though in nothing else, I am lucky as a traveller, and the sun came out before I left the field, and gave a rainbow that spanned the wonderful scene of castle, tower, monument and battle-field.”

Stopping at Linlithgow he wrote: — “The venerable church of St. Michael stands in the grounds, and is in that

condition in which are most of the cathedrals and abbeys in Scotland, which are near enough to towns to be used. Their walls and windows are mostly entire, roof gone and all wood-work burned off, and the chancel or choral and choir built off by a wall and fitted with a low flat plaster ceiling under the grand old roof, and sides whitewashed and floor pewed off, and a big pulpit stuck up, and thus fitted for a Scotch Presbyterian synagogue, where a Scotch congregation can sit comfortably two hours, and hear two sermons — that is usual — one on an obscure prophecy of Habakkuk (*Hab-ba-kook*, they call it) on the Chaldeans coming East to Jerusalem, and another on the relation of the irrespective decrees with hopeful work ! ”

After visiting Jedburgh, Melrose, Dryburgh, and Abbotsford, he crossed the border at Berwick-on-Tweed the 6th of September, finding time to walk round its walls ; and there his trip to Scotland ended.

On his way to Oxford he visited Durham and Peterborough, and in a letter written to the family at home broke out in these words addressed to the elder Dana, then in his eighty-fourth year, who it will be remembered had never crossed the Atlantic, nor indeed hardly been outside of his native New England : — “ My dear Father, I never walk about a cathedral town without an earnest wish that you were here. No man in our fresh, raw America is so suited to drink in the enjoyment of these scenes. How you would relish the quaint silent old towns, with their ancient houses and streets, and the utter absence of all proofs of material prosperity, — yet all looking comfortable and respectable. And then to hear the solemn old chimes filling the air at every quarter hour, — and then to lie on the close-woven turf, under the shade of a holly, with no fear of a mosquito, and gaze at the vast and varied structure before you, which seems just too much for man to have made, its turrets and pinnacles swimming in the air, and its broad base, and time-hallowed stones, and the rooks under its eaves, — and to go

in and hear its solemn echoes waked by a grand organ and chanting choirs! It takes you quite out of this world, I do assure you. And then it is refreshing to hear the verger say, — ‘Oh, that chapel is modern, it was built in the fifteenth century. The nave is of the twelfth century.’ ”

Revisiting Oxford, by the 12th of September he was in London. It was the dead season and in the midst of the Franco-Prussian war, but Mr. Motley, at the time Minister to England, was in town, and the next day had Gladstone, then prime minister, to meet him at dinner, — and Dana wrote home: “Gladstone was there, and fascinating. He is so full, so rich, so enthusiastic, so handsome, and so natural. He has not an affectation. And you are sure that he is always talking his real opinions. . . . There is a charm in his voice and smile. He looks care-worn, but insuppressible. He had spent the afternoon with Thiers, who comes on a special mission. Every topic that came up Gladstone was full upon, and his information is exact.”

On the 15th he sailed for America, writing from Liverpool: — “Here ends my tour in Great Britain, forty-two days, without once an accident, or error, or mischance of any kind, and full of interest and pleasure. May I not fail to be grateful!”

At this time the Dana home in Cambridge, where they had lived for over twenty years, was broken up, for the children were no longer young, and it was thought that a year or two in Europe would in every way be of advantage to them. Mrs. Dana accordingly went abroad with the daughters, leaving the two Richards, father and son, in America, the former finding a temporary abiding-place at the house of his father in Chestnut Street, Boston, while the latter, being then an under-graduate, remained at Cambridge. Space will not admit of many extracts from the familiar letters Dana now wrote to his family, but a few are characteristic and still have an interest.

In June, 1872, Gilmore’s great musical Peace Jubilee was

held in Boston. It was nearly twenty years ago, and the event is now forgotten; but at the time it excited a widespread interest, and, to their utter surprise, real lovers of music and old-time students of its effects felt moved by a new excitement, the tears coming unbidden to their eyes as the fresh young voices of thousands of children rose in waves of harmony and swept over the vast audience which thronged the Coliseum. The whole thing appealed to Dana both from his strong human sympathies and his inborn love of music, so in the midst of it he wrote this letter to one of his daughters:—

[1872. *June 22*, Boston.] Now, — Jubilee! It is a success, and a great one. Audience rather small the first day, but increasing daily, and the third day as big as they could expect. The great feature of it, to my mind, is the good faith in which some twenty thousand men and women, the very best people in New England, have entered into the work. Such a body of volunteer singers, representing so much intelligence, sense, character, and manners and morals, could not be found to engage in such a work in any part of the world out of New England. It is affecting to see them streaming along the hot dusty roads that lead down to the Coliseum, their unmistakable chorus books in their hands, and driving through the city in long wagons, and crowding the horse cars, and swarming over the Common and Public Garden, looking so pleased and anxious, and talking it all over, and then the little sittings down on the innumerable seats that now line the walks, *tête-à-tête*, so tender and full of promise!

I do not care if the Jubilee does originate in the ambition of an Irish bandmaster and the business views of railroad men and hotel-keepers, — the good

people have taken it up, and the town of Boston, and New England, and the United States are set forward by it; and taste for good music receives an impetus that is incalculable. Think of singers from Damariscotta and Norridgewock, who have thought twenty a mighty chorus, hearing the best players and singers and best military bands in the world, and Strauss and Leutner and Goddard, and hearing an orchestra of one thousand, and a chorus of twenty thousand, and seeing such a spectacle, and experiencing such emotions as that place excites!

It was a master-stroke of Gilmore, getting the three great national military bands of Europe, and pitting them against each other in the Boston Coliseum, backed by their respective nationalities. The Germans came on from New York by the thousands, on the German day. The French band is generally preferred, and the Grenadier Guards next, and German last; although there are differences of opinion, and each band has its special excellence.

I have seen Strauss lead an orchestra, and heard Leutner strike a clear note at G alto, — if that is the way you call it, but it was only a feat, — there was no music in it.

They have had an entire week of unbroken sunshine and moonlight!

[1873. *March 15.*] I have given up all expectation of public employment. I should like to be relieved from the time-wasting of ordinary lawsuits, — for they are no better to a man at my age, — and to be able, the next eight or ten years, to use my powers and knowledge in a larger sphere. Or, if I am not to be so employed, to give my mind and study to a work on international law. That, I ought to do.

The objection is the old, old story, — I cannot afford it. But, if I ever have an income on which I can live modestly and frugally, I mean to give up the Bar, and devote myself to that work. And it is almost time I began it.

I shall not avoid any decent public duties that may come to me, for I have a conscience about American citizenship; but our politics look low and dark. They seem to be drifting off beyond the reach of the moral opinion of society. The conduct of the last Congress presents a sad scene to the eye. It is not only the unscrupulous voting of themselves back pay for two years, but chiefly the underhand way in which they did it, and the absence of much earnest and manly opposition on the part of those who voted against it. Then the Credit Mobilier scandal, and the concealments and prevarications of so many members; and the exposure of so many cases of bribery in obtaining seats. Massachusetts has been represented far too largely by mere business men, who have no ideas, and no high aims, and go to Congress for business purposes only, and now we are reaping the rewards of it. Sumner in the Senate and George Hoar in the House are the only men we can look upon with unmixed satisfaction in their private relations to public business.

[*May 31. Saturday.*] Our club dined to-day, — the largest number we ever sat down, partly as the last of the season to which many come, but chiefly to welcome Emerson, on his return from Europe and Egypt. We had Emerson, Longfellow, Agassiz, Hoar, Appleton, Adams (C. F.), Forbes, Eliot (C. W.), Gurney, James, Whipple, Fields, Dwight (J. S.), Eliot Cabot, Francis Parkman, Professor Wyman, C.

C. Perkins, Edw. Perkins, Hedge, of the members; and, as guests, Count Corti, the Italian Minister, Boutwell, Robert Dale Owen, Dr. Bellows, Dr. Edward Clarke and others I forget. It was really rather a brilliant gathering. Yet, as we sit at a long table, and the room is on the street, and, being warm, the windows open, we have no general conversation. All the talking is in sets, of two to four each. Towards the end of the dinner we change places a little. Emerson looks years younger for his European tour, and is in good spirits. Even his hair has come back, which had nearly left his head last summer. Mrs. Bell was asked what the Sphinx would say to Emerson, and she said, — “You’re another.”

[*October 28.*] Yesterday, my father had a great success and pleasure. I took him to the club to dine. We had Emerson, Longfellow, Agassiz, Charles Francis Adams, Sumner, Holmes, Judge Hoar, President Eliot, and others, our usual set; and, after a while, Emerson rose and asked a moment’s attention and said: “We are gratified, to-day, by the presence of Mr. Dana. He has a higher as well as older claim on the respect and honor of men of letters and lovers of literature than any of us here, and we must not let the occasion go by without an expression of our feeling towards him. I propose that, instead of nominating him for election as a regular member of the club, which we would gladly have done years ago, we unanimously declare him an honorary member and permanent guest of the club,” etc., etc. Agassiz put the question, and they all rose to their feet in response, and gave him a hearty cheer. It was very gratifying, touching and in the best possible taste.

After this, he talked with several members, and

among others with Agassiz, whom he had never talked with, and against whose views he was prejudiced; and was delighted with him, especially with the opinions Agassiz expressed about liberal education and the classics, and as to the intuitive as essential to a discoverer, etc. Agassiz said he would never, if he could prevent it, allow a man to begin work in his museum, or in physical science, until he had been through college, and trained and enlarged and elevated his mind by literary studies and philosophy and modes of reasoning applicable to moral science, as well as in those peculiar to the exact sciences or to physics, etc. Indeed, he did talk wisely and very well.

The following letter, written, as the date shows, during the next year and after his family had returned from Europe, explains itself. Mr. Sumner had died in Washington on the 11th of the previous March:—

BOSTON, *July 6, 1874.*

MY DEAR MR. LONGFELLOW, — I need not attempt to tell you how greatly I am gratified by the invitation of the literary trustees of Sumner to prepare his biography. I shall always esteem this mark of confidence as one of the highest honors of life.

If I were master of my time, this offer would present an opportunity as tempting as any I can imagine. His biography would be a history of the middle period of this century in the United States, and of the greatest events, viewed in their moral and political relations, of modern times. But I am not master of my time. I am bound to my profession by calls which I cannot resist, and any leisure time I may have, for several years to come, is pledged to

another work, on international law, which I feel it to be my highest duty to complete.

I could have answered your letter at once, as you see, but I lingered fondly over the proposal, though it was clear to me from the first that I must deny myself this great opportunity.

May I ask you to convey to your associates my acknowledgments of their favor, and believe me,

Ever faithfully yours.

I now come to the last considerable public event in Dana's life, — also his final, and, it must also be added, his greatest political disappointment, — I refer to his nomination by President Grant for the English mission in May, 1876. He was then living with his family in Boston and engaged in the practice of his profession, from which he was deriving what was, considering his reputation, a reasonable income, and by far the largest he ever enjoyed. He had long since, as he wrote to his wife in June, 1872, "given up all expectation of public employment." Suddenly, on March 7, 1876, the telegraphic announcement came from Washington that President Grant had sent his name to the Senate as Minister to the Court of St. James, to succeed General Robert C. Schenck. There was probably no position in the gift of either the President or the people of the United States which would have been so agreeable to Mr. Dana as the English mission, and this on many accounts apparent enough to any one who has read thus far in these volumes. Not only was England dear to him in itself as "the Old Home" of the race, but it was in England that he had enjoyed the most agreeable social experiences of his life. To be sent there as the representative of his country was, too, at once his vindication from the charges made against him by Lawrence, and balm to the wound inflicted on his pride by the outcome of his contest with Butler. For the moment it must have seemed to him that the cup of his

contentment was full. But it was not to be. In place of it Dana was to have in his own experience a sharp reminder of the truth contained in the oriental distich : —

“ He who has a thousand friends has not a friend to spare ;
And he who has one enemy will meet him everywhere.”

No sooner was the nomination of Mr. Dana announced than Mr. William Beach Lawrence, girding himself for the fray, was on the road to Washington. There it required but little time for him to put himself in close connection with General Benjamin F. Butler. It was a recognized and avowed rule of Butler's life, as apparently it also was of Lawrence's, never to forget an opponent, or to forgive one who had done him an injury. No opportunity, as the vulgar expression goes, to “ get even ” with such an one was allowed to escape. An opportunity now offered. Under the rules of the Senate, the nomination of a minister to England went to the Committee on Foreign Affairs. Had Mr. Sumner lived, and still been at the head of that committee, the nomination of Mr. Dana would have been confirmed at once and as a matter of course. Unfortunately Mr. Sumner had not only been displaced from the chairmanship of the committee, and Simon Cameron of Pennsylvania substituted for him, but he was dead, and could no longer champion the cause of his friend on the floor of the Senate. Had he been there it is altogether probable the conflict, had there been any, would have had a different outcome ; but he was gone, and there was little in common between Mr. Cameron and Mr. Dana.

It has been stated that the nomination of Mr. Dana as the successor of General Schenck caused much surprise in the Senate wing of the Capitol, and was the reverse of acceptable there. It originated with Mr. Fish, then Secretary of State, who thought it expedient that the new minister to London should be a Massachusetts man, but one not identified politically with Mr. Sumner, whose later course in the Senate had not been acceptable to the administration. Five years before Mr. Dana's name had been of those most

prominently spoken of in connection with the choice of the representative of this country on the Geneva tribunal, and now it naturally suggested itself to the Secretary; more especially as his own personal and social relations with Mr. Dana, as well as those of Mrs. Fish, who like Mr. Dana was an earnest Episcopalian, had long been pleasant and friendly. The suggestion proved acceptable to the President. Whether the nomination which followed interfered with other arrangements contemplated by certain Senators has been a question in regard to which many stories, more or less authentic, have first and last been in circulation. According to some of these stories, the selection of a minister to London at that juncture had a remote bearing on the choice of a presidential candidate, then about to be made; while, according to others, it was connected with a vacancy proposed to be made in the Cabinet, to be filled in due course by J. D. Cameron, the son of the Pennsylvania Senator; for Simon Cameron was an old man, and the wish nearest his heart was to bring his son forward as his political heir.

In the course of subsequent events the thing last suggested actually did take place; for, after the nomination of Mr. Dana had, through the instrumentality of Mr. Cameron, been rejected by the Senate, Mr. Pierrepont, then Attorney-General, was sent to England, and the Secretary of War, Alphonso Taft, of Ohio, was appointed Attorney-General in his place. The vacancy thus created in the War Department was then filled by J. D. Cameron. While there is nothing to warrant the belief that the rejection of Mr. Dana and the subsequent appointment of Mr. Cameron were in any way connected, it is none the less very certain that, for some reason not apparent on the surface, a strong objection developed itself in the mind of the elder Cameron to the appointment of any Massachusetts man to the mission in question at the time, — Massachusetts men had already filled it far too frequently and too long! But some better

pretext than this was necessary to secure the rejection by the Senate of a nomination in every outward respect so creditable as that of Mr. Dana.

Mr. Lawrence and General Butler next appeared most opportunely on the scene, and asked to be heard by the Committee on Foreign Affairs in relation to the obnoxious nomination. Under the rules of the Senate no public hearings are given by committees. Such hearings as may be vouchsafed are matters of favor, and are private. No report of what takes place at them is made, nor any record, so far as is known, kept. No intimation of what was about to take place was given Mr. Dana, who was left to receive notice of the danger to which his nomination was subjected from the public prints and his friends of the Massachusetts delegation in Congress.

The nomination was sent to the Senate on Tuesday, the 7th of March. The hearing of Mr. Lawrence and General Butler before the Committee on Foreign Affairs was on the following Tuesday. Four days later there appeared in the issue of the New York "Tribune" of Saturday, the 18th, a letter from General Butler, which gave Mr. Dana and his friends their first knowledge of the nature of the charges made against him; while they at the same time learned that the committee had immediately after listening to the charges reached a decision adverse to confirming the nomination.

At the hearing Mr. Lawrence appeared as objecting to the confirmation of Mr. Dana, and General Butler was with him, either as counsel or on his own behalf. They brought with them the whole voluminous record in the Wheaton suit, including the opinion of the court, and claimed that Mr. Dana stood convicted of the offence of plagiarism. The specific charge was also advanced by General Butler, and confirmed by Mr. Lawrence, that Mr. Dana had, in his sworn answer in the suit, made a false statement; and of this fact they undertook to furnish the committee

proof from the printed record of the case. They then cited from Mr. Dana's deposition, as printed in the record, the statement that during the discussions of his notes to Wheaton, which it had been his practice regularly to have with his brother Edmund T. Dana at the house in Chestnut Street, where the latter was then confined by ill-health, "from the beginning to the end, we did not have before us, nor in the house, nor did we look at, either edition of Mr. Lawrence's Wheaton. To the best of my belief, my brother did not see either of Mr. Lawrence's editions until after the commencement of this suit." Confronting this statement with the finding of the court, the double charge of literary piracy and perjury was brought against Mr. Dana; or, as General Butler coarsely expressed it in his letter to the "Tribune," "the gravamen of Mr. Dana's offence was not so much that of pirating the book, but that he swore he did n't."

The astounding audacity of this charge indicated the quarter from whence it came. Its recklessness bespoke its pater-
nity. Mr. Lawrence knew well its falsity as he listened to it in silent assent; but he never originated it. No one but Butler would ever have dared to advance such a charge, knowing well that the record appealed to disproved it, but confident that those who listened to him, and who were to decide the cause, were too busy to consult a record so voluminous, even did time admit of their so doing. Both he and Mr. Lawrence, while addressing that committee in secret session, knew perfectly well that in the statement quoted by them Mr. Dana referred only to the use of Lawrence's edition in the discussions over his own notes between his brother and himself, which took place at their father's house in Boston. As to the use made of Lawrence's edition by him in the original preparation of the notes at his own house, not only had he declared, over and over again, that he had examined Lawrence's notes just as he had examined the works of other authorities, "not more or otherwise," but one of the charges of infringement of copyright made against

him was based on the admitted fact that he had followed the text of the edition of 1863; and, moreover, he had himself frankly described how he had worked from an interleaved copy of that edition. And now it was impudently claimed he had sworn that, while preparing his notes, "he did not have before him, nor in the house, nor did he look at" a copy of the book!

The next charge, less bold but more contemptible than that just referred to, clearly emanated from Lawrence. It bore his characteristics. Among the foreign publicists of his acquaintance, to whom he had sent copies of the paper prepared by him on Mr. Dana's alleged plagiarism, was Dr. Abdy, the Professor of International Law in the English Cambridge, and Dr. Abdy had most incautiously written him a familiar private letter in acknowledgment, in which was the following passage:— "I have read the report of the pleadings and arguments in your suit against Mr. Dana, and I have also looked at his edition of Wheaton, and I must say that of all the cool proceedings in the shape of literary piracy I have read or heard of, that is the coolest. I do most cordially hope that ere this comes to hand you will have received substantial justice for the injury inflicted upon you." Mr. Lawrence attached this letter of Dr. Abdy's to one of his answers in the suit against Dana, and there Dana saw it. He then wrote to Professor Abdy, calling his attention to the use which had been made of his letter, and in reply Dr. Abdy explained that he had written his letter to Mr. Lawrence "hastily, more out of friendship to Mr. Lawrence than upon a careful review of the two works, and before I had seen the pleadings, evidence, and arguments on either side." He found fault with Mr. Lawrence for having printed "a private communication not intended for publication," and added, "had I been asked, before it was printed, or had I had an opportunity of saying whether I was willing to allow that to be done, I should have said No."

All this Mr. Lawrence knew perfectly well, for it had been printed in the argument for Mr. Dana, to which Mr. Lawrence had himself prepared an elaborate reply. But now, in a secret session of the Senate Committee on Foreign Affairs with no one but himself present familiar with the case, — much less a representative of his opponent, — he did not hesitate to produce Dr. Abdy's original private letter to him, first, as evidence of Mr. Dana's plagiarism, and, secondly, as proof of the estimation in which he was held by English publicists of eminence who, of course, he must meet should he be sent to represent the United States at the court of Great Britain.

Clearly, in taking the course he now did Mr. Lawrence laid himself dangerously open, had any one there been sufficiently familiar with the record to call attention to that letter of his to Miss Wheaton in which he had referred to the necessity of vindicating himself from "the dastardly attacks of assassins." He now was engaged in dealing stealthily blows himself, in secret and at his opponent's back.

It was on the 14th (Tuesday) that Messrs. Lawrence and Butler appeared before the committee, and the same day Mr. Dana received a short telegram from his friend Henry L. Pierce, then representing one of the Boston districts, that the opposition to his confirmation was becoming serious, and adding that "Clifford, Lawrence and Butler are the moving spirits." But he had before had notice of impending trouble, for during the previous week the New York "World" had opened fiercely upon him, inspired evidently by Lawrence, and had announced that he (Dana) having "no better character than Gen. Schenck" did not "disdain either falsehood or perjury in a stroke of literary piracy"; and again in its issue of the 11th, the same paper had declared that those who denied Mr. Dana's unworthiness to represent the United States at the English court "must deny the existence of literary property, or else they may think that piracy and perjury acquire moral dignity when com-

mitted by a Boston Brahmin." These newspaper utterances were clearly preparatory to the hearing before the committee, — they were part of the plan of campaign; but, appearing as they did in the columns of an opposition organ, they were looked upon as mere newspaper diatribes, and as such unworthy of notice. So the Pierce telegram of the 14th seems to have come to Mr. Dana as the first note of real danger. For a whole week he had indulged in an unwarranted sense of security.

The committee had in fact already instructed its chairman to ask for the withdrawal of the nomination because of the grounds on which objection to it was made. Messrs. Boutwell and Dawes were then Senators from Massachusetts, and George F. Hoar was in the House. Mr. Boutwell, as soon as he heard of the decision reached by the committee, telegraphed Mr. Dana asking him if he wished to be heard before the committee, and Mr. Dana replied the same day that if any charges against him were made he claimed a hearing. Meanwhile, Mr. Cameron lost no time in calling on the President and asking to have the obnoxious nomination withdrawn, but this Grant and the Secretary of State refused; accordingly he found himself cut off from the easy way out of the difficulty. All this took place on the 14th, and the expression of feeling over the course taken by the committee was so strong that Mr. Cameron thought it prudent to delay an adverse report, and Mr. Boutwell was authorized to notify Mr. Dana that the committee would hear him on Tuesday, the 21st.

The position in which Mr. Dana now found himself placed was a difficult one. As yet he did not know what objections to him had been made, for it was not until four days later that General Butler's letter appeared in the "Tribune;" he only knew that Lawrence and Butler were working against him. If objection was made to him on general grounds of fitness, he could not ask to be heard; he would only degrade himself by so doing. If, as he suspected, the grounds

of objection were specific and based on the Wheaton litigation, could he bring himself to going before the Senate Committee on Foreign Affairs, sitting as a species of court of appeal on the issues involved in that intricate case, and take the chance of their decision, influenced as the members of the committee might be by all sorts of political considerations, of the extent and bearing of which he had no knowledge? — His friend Mr. Evarts was telegraphing him to go on to Washington; but, as he shortly after wrote to his son, then travelling in Europe —

It is constantly said among politicians, and at Washington, that the committee saw their mistake, and were glad of any excuse to get out of it. If I had gone before them, they would have reversed their decision, etc., etc. It is possible that was so. But from the best I could learn, they would have degraded me and defeated my nomination both. To have been rejected, after having voluntarily submitted the question of my character to them, would have left me in a slough of despond. It was what Butler, Lawrence and Cameron desired, of all things. I could not take the risk of such a result, whatever the promise of impartiality might be from men who had once done as they did. Then, the humiliation of going before such a committee to vindicate my character against charges by Butler, — a great office being the prize! As I wrote to a friend in Washington, who counselled my going — “I cannot do it; my father could not do it; my grandfather could not have done it; nor his father, and my son would not have done it.”

If I did not go, and yet assigned no reason for not going, they would have said they had given me an opportunity and I was afraid to meet it. All was secret, the Senate debate as well as the committee

hearing. My only course was to refuse to go, and to give the true reason for it to the whole world. This enabled me to go down with flags flying and guns firing. . . . I have made mistakes in life, but this is not one of them.

During the 15th and the 16th he learned from the Secretary of State, Mr. Fish, what the committee had done, and at the same time received from Washington telegrams urging him to send on there immediately the material necessary to answer the printed documents filed with the committee by Butler and Lawrence, with their ingeniously deceptive display of incompatible statements in parallel columns. To one with his keen sense of honor and self-respect, the situation was rapidly becoming intolerable. He, nominated by the President for a high public office, seemed actually in danger of finding himself confronting a secret and irresponsible tribunal to exonerate himself from charges of plagiarism and perjury! The thing was not possible. So on the 16th, still two days before the publication of Butler's "Tribune" communication, he wrote the following letter to Mr. Boutwell:—

BOSTON, March 16, 1876.

Dear Sir,— When I first heard that charges were to be made against me before the committee, my impulse was to demand a hearing, and I asked you to do so, but in my telegram of the 14th I said that if the question was upon my general fitness, I had nothing to say; but I could not believe that a committee would listen to charges affecting my honor from antagonists, and decide adversely to me, without offering some opportunity of explanation. I was careful not to ask for a hearing, but only to express my belief that no committee would act adversely to me on an *ex parte* hearing. I did not then know what the committee had done, but only heard rumors that they had heard

or intended to hear my antagonists. This morning I learn the facts authentically for the first time. I learn that the committee did give a secret *ex parte* hearing to two men known to be my enemies on personal grounds, and on that hearing alone came to an adverse decision and acted upon it. They had no intention of seeking information from me or my friends. They committed themselves to that decision, and requested the President to withdraw my nomination, with the understanding that if he did not they should report adversely. I understand that it is only upon the urgent request of persons entitled to their attention, who have set before them the unfairness of their action, that they have consented to let the matter lie over until Tuesday, that I may be heard if I wish to be. The committee has never addressed me, but only made it known to others that I may appear before them if I desire to. I understand further that the objections made before the committee partly related to party politics, but mainly, perhaps, to charges made by my antagonist in a private civil action.

I trust, my dear Mr. Boutwell, that you know me well enough to know that I shall not ask to be heard before the committee under such circumstances. I value highly the honor of the office tendered to me, and am grateful to the government for the distinguished compliment. When I saw the surprising unanimity, and I may even say enthusiasm, with which it was received by the press and the public, — altogether the most gratifying thing I ever experienced, — I will say to you frankly that it removed every doubt arising out of my private circumstances, and that I determined to accept the office; but there is nothing in the gift of the government which would

induce me to go to Washington and submit a question touching my honor to a committee which has taken the course which has been taken by the Senate Committee on Foreign Relations. I do not wish my nomination withdrawn under the circumstances. It would not be withdrawn with my assent. If the Senate reject it under the present circumstances, I trust I shall not fail of the grace to submit with equanimity.

You may make what use of this letter you think judicious.

Yours very truly,

RICHARD H. DANA, JR.

After the above letter had been written and mailed, the advices from Washington became more favorable, and Mr. Dana telegraphed to Mr. Boutwell to hold it and await the further development of events; but on the 18th, two days later, the "Tribune" published Butler's communication, and Mr. Dana then felt convinced the committee had, as he expressed it, "been Butlerized," and was, for other reasons which did not appear, determined to defeat the nomination. He accordingly then telegraphed Mr. Boutwell to make such use of the letter of the 16th as he deemed proper, and at the same time sent a copy of it to the papers. It was published on Monday the 20th, the day before the date assigned for his hearing by the committee.

The letter spoke, and speaks, for itself. It rang out a clear note of defiance. By it Mr. Dana took, and intended to take, his appeal from the Committee on Foreign Affairs to the Senate; and later he so telegraphed to Mr. Boutwell. Mr. Hoar the next day sent to him a message warmly commending the letter, but, in view of Butler's communication to the "Tribune," urged that some clear-headed person, who understood the record of the Wheaton case, should at once be sent to Washington to aid the senators in mastering it. In compliance with this suggestion, William G. Russell, who had appeared as counsel for Mr. Dana in the case, went to Wash-

ington, taking the bulky record with him. There he labored with several senators, not ineffectually, though he found the field already skilfully occupied by his adversaries. The senators he appealed to pointed first to the words in the preface to Dana's book saying "the notes of Mr. Lawrence do not form any part of this edition," and then to the opinion of the court; and the case was so intricate and the record so voluminous that, in face of the ingeniously arranged and compact charges advanced by the other side, it not only seemed to, but actually did, set intelligible explanation at defiance. So on the 24th he telegraphed back to Mr. Dana that he had worked diligently all day, but the result was very doubtful; for, he significantly added, "the letter killeth."

This was probably true, for, so far as Mr. Cameron and the Committee on Foreign Affairs were concerned, the letter of the 16th, and Mr. Dana's refusal to appear on the 21st, solved the difficulty. They took the ground that the letter was defiant in tone, and the refusal to appear after he had demanded a hearing was discourteous on Mr. Dana's part, leaving but one course to be pursued; and that course they pursued. The nomination was thereupon on the 22d reported back adversely.

It was not finally acted upon until April 4, and the debate was in executive session. The adverse report of the committee was then adopted by a majority of eighteen in a total vote of fifty-two, the Democratic senators, from considerations of party feeling and influenced by the utterances of the New York "World," acting as a body in support of the committee. Though in the interim Mr. Dana's friends had not desisted from their efforts, and although to the last he was naturally not without hopes of a different result, he bore the disappointment and mortification manfully, writing to his son on the very eve of the adverse action of the Senate, and while fully expecting it, — "Don't let this make you any the less patriotic. It only shows you how much more the country needs the services of good men, — how much the rising generation has to do for their State."

Though Mr. Dana nursed the confident belief that, whatever mistakes he might have made in life, his course in this matter was not one of them, good grounds exist for a different conclusion. In point of fact, suspicious as some of the circumstances seemed, there is no evidence that Mr. Cameron had in the course he pursued any ulterior purpose. On the contrary, there is reason to believe that he at first merely allowed himself to be deceived, and drawn into a false position, by Messrs. Lawrence and Butler; and, finally, felt himself compelled by Mr. Dana's letter to adhere to the position he had taken. In this case, as in others, had Mr. Dana been able to exercise somewhat more tact, and indulged in a less aggressive sense of honor, the result would not improbably have been much less satisfactory to his enemies and far more so to his friends.

Such certainly was the opinion of the two Massachusetts Senators. They, and Mr. Boutwell especially, exerted themselves to secure a different result; and, both at the time and afterwards, believed they would have succeeded, had it not been for Mr. Dana's letter of March 16th; that letter, they insisted, made a personal question between Mr. Cameron and Mr. Dana, and "the courtesy of the Senate" then came into play. As for Messrs. Butler and Lawrence, their position and motives, it was asserted, were understood, and at the close they influenced no one; Mr. Cameron, however, was not only the chairman of an important committee, but both in the Senate and out of it he had hosts of warm personal friends and great political influence. The Senate, moreover, is a club, and like other clubs is governed by its rules, written and unwritten; as such it is prone to resent what is construed as a disrespectful attitude towards itself or its members, and an attitude of independence may not infrequently be looked upon as unseemly. It was apparently so in the case of Mr. Dana.

However this may be, the combination, — Cameron, Lawrence and Butler, — even if fortuitous, was effective.

Though Dana thereafter might pretend to think otherwise, no reasonable doubt exists that the wretched controversy over his notes to Wheaton, which had already imposed upon him much of the most severe work of his life at its most critical period, now cost him the English mission. No matter how much his nomination to that mission might have interfered with projected political arrangements, supposing that it did so, it would not have been within the power of Mr. Cameron to prevent its confirmation had he been able to advance no more valid objection than that the nominee was a citizen of Massachusetts, or that, as he himself, it was alleged, felicitously but somewhat profanely expressed it, he belonged to the literary-class. The words¹ in which, as was currently reported, he conveyed his meaning in this last respect, became, indeed, a permanent contribution to American political parlance, and is almost the only thing elicited by the struggle over Dana which took a firm hold on the public mind and memory. There was about them a humor and point as well as a terseness which caused them to pass at once into the vernacular. So far as Mr. Cameron was concerned, the contest could, therefore, have been in its results in no way unsatisfactory; for he both carried his point, and at the same time made a lasting contribution to American political speech. Of Mr. Lawrence and General Butler, and their records in the transaction, nothing more needs to be said.

Had the nomination of Mr. Dana been confirmed, there can be no doubt he would have held the English mission, had he so desired, throughout the administration of President Hayes, who succeeded General Grant, inasmuch as his warm personal friend, Mr. Evarts, was then Secretary of State. It would have been an agreeable and fitting end of Mr. Dana's active life; but, as I have already said, it was not to be.

The rejection of the nomination brought out from all

¹ "One of those damn literary fellers."

quarters strong expressions of sympathy and good feeling towards Mr. Dana. The Republican state convention met shortly after to select delegates to the presidential convention which was to be held in June at Cincinnati for the purpose of nominating a candidate to succeed General Grant. The reform feeling was then strong in Massachusetts, and the public mind had been turned towards Mr. Dana. He was accordingly nominated as one of the four delegates at large, and as such attended the convention, where he threw all the influence he could command in earnest support of the nomination of Benjamin F. Bristow, the candidate of the reform element. His efforts were not crowned with success; and, through the impossibility of agreeing upon either of the more prominent candidates, the nomination finally went to Rutherford B. Hayes.

In 1877, the year following, Mr. Dana was selected by the State Department, of which Mr. Evarts was then the head, to be one of the counsel of the United States government before the international reference appointed to meet at Halifax. The subject to be arbitrated grew out of the great Geneva award of 1872, and related to the fisheries. The referees were Mr. Maurice Delfosse, the Belgian minister at Washington, with Sir Alexander Galt, the Canadian premier, and Mr. Ensign H. Kellogg, of Massachusetts, representing their respective governments. Mr. Delfosse was in fact sole referee. A large part of the summer of 1877 was, therefore, passed by Mr. Dana at Halifax, where he was accompanied by several of his family.

So far as Mr. Dana was concerned, the chief result of the conference was the agreeable relation then established between himself, and the members of his family, and the family of Sir Alexander Galt, the British Commissioner, for whom, personally, Mr. Dana conceived a high regard. Pleasant familiar letters also afterwards passed between him and one of Mr. Galt's daughters, who subsequently married in Boston, becoming Mrs. Robert Grant; and when,

before her marriage, Miss Galt came to Boston on a visit of pleasure, Mr. Dana found time to show her as a girl all the objects of interest, acting, though more than forty years her senior, as her guide and companion.

The Halifax award was the last public professional labor in which Mr. Dana was ever engaged. He had now become tired of his profession, nor was he unconscious of the fact that his career had, in many respects, not been what it once promised to be. But he told the story himself in the following familiar letter written four years before, in which he passed his life in review : —

1873. *April 22.* . . . I am charmed with all you say of Rome. It does seem to have taken you all captive. And now you are in Naples and Sorrento! Yes, I do wish, with you, that I could afford a year in Europe, — a winter in Rome. But that would be abandoning my profession, which I am by no means able to do, and probably shall never be able to do, until it will be too late for me to accomplish what I wish to do. You are quite right and reasonable in your hope that — and — may feel the importance of frugality, that they may have the means of doing what they may wish to do, in middle life. That is the rock on which I have split. . . . That may seem to you an overstatement, as I have done a good deal in life. But, nevertheless, my life has been a failure, compared with what I might and ought to have done. My great success — my book — was a boy's work, done before I came to the Bar. I was going on well in professional success, and I had made a great forensic success in the constitutional convention of 1853, — up to the time of my sickness and absence in 1859-60. It was not so much overwork that broke me down, — that never hurt me, — as

anxiety and care. . . . My talents and tastes fitted me especially for parliamentary life ; and, when my party came in, I could have probably gone to Congress, and I am sure I should have distinguished myself. But I had no money, and was obliged to refuse the offers of my friends. That was the career for me. I have no right to lay the fault wholly on the people and our institutions. I had my chance, and my want of means, which was my own fault, — certainly not the fault of the public, — precluded me. In my youth I thought it a fine thing to despise money, but forgot that I needed and ought to have the opportunities which cannot honestly be had without money, and I learned, too late (as most learning by experience comes) that pecuniary anxieties disable a man in middle life more than ill health, or sorrows or over-work.

The Bar, after fifty-seven, which is my age, becomes less desirable, unless one has a very high line of causes and his choice of labor, and must soon be relinquished. A high judgeship, or a seat in the Senate, or a cabinet seat or a foreign mission, — the next step, each is a rare thing, and hardly to be expected by one out of political office. One cannot half do the Bar. It is all you can, or nothing. I cannot intermit my work and undertake some other work, until and unless I am able to quit the Bar altogether, and give myself to a work on international law, as the work of my life. My anxiety now is that this time may come soon, before I am too old to do my best.

CHAPTER IX.

EUROPE. — DEATH.

IN a letter to James Russell Lowell, written from the house at Manchester-by-the-Sea, and dated August 17, 1878, Dana said, — “ Yes ! I have taken the great step of giving up my profession and my home to spend time enough in Europe to write a work of my own on international law. I am sixty-two years old, and cannot make any arguments to bar or to bench better than I have made ; and my physician says that I ought to take a long relief from exciting public work ; and, if I do, he predicts for me a long life ; and, if I do not, a short one.”

In pursuance of this plan he shortly afterwards took passage for Europe accompanied by Mrs. Dana and two of their daughters, and the following winter was passed by them in Paris, living very quietly in a modest apartment on the rue Keppler, not far from the Champs-Élysées. He had brought with him all the books in his library relating to international law, and obtained many others on the same subject from the French libraries ; and it was his custom to devote about four hours of each day to study, while his afternoons he gave to the exploration of the old, historic portions of the city, and excursions to the different suburbs. He took a lively interest, also, in the customs of the French people, their fêtes, fairs, occupations and amusements.

Early in February, 1879, he received by cable information of the death of his father. Though the elder Dana was then in his 91st year, he had, when his son left America in the previous summer, been so vigorous that there seemed

no reason why he should not live through the winter ; and it had been part of the younger Dana's plan to return to America during the following summer for the purpose of passing it with him. News at the same time came of the serious illness of Mr. Parker, and the two events so greatly depressed him that he was urged by his family to make a short trip to Belgium. During this trip he visited Brussels and the battle-field of Waterloo. The latter roused in him an almost boyish enthusiasm and interest. Indeed, when he returned to Paris he wrote to his sister in America a long and vivid account of what he saw at Mt. St. Jean, which would be well worth insertion here did space admit : — “ I was greatly surprised to find how near the lines were to each other. Wellington and Napoleon could have seen each other's faces, with fair field glasses. General Sheridan told my guide, who was also his, that he was amazed not only at the nearness but at the shortness of the lines, — the English not being over a mile and a half, and the French not over two miles in length. No such battle could have been fought with the modern weapons of offence.”

Returning to Paris greatly improved in health and spirits, he resumed his studies in international law with increased zeal, until, in July of the next summer he returned to Boston in order to settle up his father's estate, and at the same time finish the hearings in the Lawrence suit. It was now that he wrote to his daughter, who had remained abroad, describing in the passage which has already been quoted his sensations at once more finding himself battling before a judicial tribunal. I had met him only a day or two before, and remember how well and bright he appeared, and in what good spirits. In his aspect there were none of the indications of anxiety, ill health or disappointment ; on the contrary, he impressed me as being a strong, hale man of sixty, happy in his family and satisfied with his lot, enjoying the present and looking forward with satisfaction to the future. I asked him what progress he had made with

his proposed treatise, and he told me that as yet he had not begun it. He was working at it in his own way, and the way I so fully understood, — reading the authorities, — jotting down memoranda, — writing or dictating short notes. He was, in a word, slowly and laboriously filling up his mind; and presently when it was full, and he had assimilated its contents, then, and not until then, would he pour the results rapidly out and crystallize them on paper.

I asked him to dine with me, and a few days later he wrote to his daughter, — “Yesterday C. F. Adams, Jr., gave me a dinner at his house in Quincy. He had his father, his brother John, Chief Justice Gray, F. E. Parker, O. W. Holmes, Jr., E. L. Godkin and Cabot Lodge. It was very pleasant, though the thermometer was 90, we sitting on the piazza after dinner.” Some days later he again came out to Quincy to call on my father, stopping on his way back to the train at my house, and we again sat some time on the piazza talking together and looking at the view. Presently he bade me farewell, for he was soon to sail for Europe, and I watched his vanishing form as he walked through the trees down the path which led to the railway station. I never saw him again.

While in America he was made happier by the birth of a grandson, another Richard Henry of the fourth generation, also a grandson of the poet Longfellow. Returning to Europe in September, Dana passed the next winter in Paris, still engaged in his slow process of mind filling. In the following May and June five delightful weeks were spent at Versailles, with daily rambles in the gardens of the Trianons and the beautiful environs of the town. During the later summer they went to various out-of-the-way watering places, — for the Danas had no liking for the rush of English and American travel which at that season chokes the more familiar places of resort, — and presently, as the autumn came on, they found their way by Geneva and Aix-les-Bains down into Italy. And Italy he never left again.

One of the darling wishes of his heart was now gratified, for he passed the winter at Rome, and his daughter says she had rarely seen him so moved as by his first glimpse of the dome of St. Peter's across the Campagna. His love for the city grew with his life in it, so that on his return there the next year he exclaimed, — "It makes me happy to feel the stones of Rome beneath my feet;" and writing to a relative from Castellamare towards the end of May, 1881, he broke out, — "This is the land for you, — the land of beauty and romance, — the land of Naples, of Vesuvius, of burning craters and flowing lava, of vines, olives, figs, oranges, and lemons, of beauty in nature and art, in the human form and movement and voice, in the blue islands, the blue wave, and the violet hillsides. If you cross the Atlantic again, you must come here. It is a dream of life."

And these glowing words prove at least that, when he gave up his profession and went abroad, Dana decided wisely and well. Most fortunately for him, he had not yet outlived, if, indeed, he ever could have outlived, the faculty of deriving keen pleasure from the contact with nature and with things which, though old, were new and strange to him. And surely, while the sun shines more brightly at Castellamare than in Boston, the full, unstinted indulgence in such a "dream of life" as Dana now enjoyed is better, far better, than passing into the vale of declining years toiling in an office or wrangling before a judge. His day's work was done, and the Italian afternoon was kindly and pleasant.

In a letter to one of his married daughters, written at about the same time as that from Castellamare from which the last extract was taken, Dana described, though in more restrained language, Rome and the life he and his family led there: —

[1881. *May 4.*] . . . On the other hand, we have had an easy, pleasant winter. Scarce a day in which it has not been pleasant enough to go out, and the

luxury of a not absolutely necessary but very comforting open fire, on the damp, cool days, and all our rooms having sun in them. It has been much the pleasantest winter we have spent abroad, and being in Rome is to be "appareled in celestial light, the glory and the freshness of a dream." We have made a great many acquaintances, Italian, English and American, civil and ecclesiastical; and with all this society, and reading and writing, we have done a good deal of sight-seeing, which we have been slow and judicious about, seldom going to more than one place in a day. Byron has called it "The City of the Soul," and little can be added to that. His two verses have immortalized the Dying Gladiator, and it is in vain for the arid archæologists to declare it only some stray Gaul who had committed suicide to prevent falling into slavery. Byron has given it a history, surroundings, and a pathos, which the beholders will not let go. So, the column in the Forum, which seventy years ago he called —

"Thou nameless column, with a buried base,"

is still best known by that line, though its base has been long disclosed and scholars have found its name.

"Buried in air, the deep blue sky of Rome" — and "The Niobe of Nations" — "Marble wilderness" and so on. Thank God, imagination and sentiment are still the strongest forces we have to deal with, notwithstanding the attempt of scientists to debase the nature of man.

The whole of the summer of 1881 was spent in Italy at Naples, Castellamare and Capri, and then, after the heat grew excessive, at Ábetone, a beautiful resort in the pine forests high up among the Apennines. It was a place not

yet discovered by the ordinary tourist, and here the Danas passed the summer in company with Italians of education and rank, and a few of the English-speaking race. In October they went to Florence, and thence, early in November, to Rome, where they had engaged an apartment in the Via Sistina near the Pincio. And now Mr. Dana set himself resolutely at work. He was happy over the return to Rome; happy in meeting old friends, among whom were W. W. Story and James Russell Lowell; and he was above all happy in the prospect of soon completing his book. He had collected his materials, arranged his subject in his head, and he saw his way clearly to the end. There was nothing left but the labor of reducing what he had stored up to its final shape on paper; and this he looked upon as the smallest part of his task. He began at once, wrote out his introduction and started on the first chapter of the work, becoming more and more interested as he went on. At the same time, he resumed his long rambles among the Roman ruins and over the Campagna, sometimes not returning until long after dark. His friends had warned him of the danger of being out in the Roman twilight chill, but as yet he had felt no ill effects from it, and paid little heed to their cautionings. On the 20th of December he passed the evening at the Duke of Sermoneta's, and told his wife afterwards that while there he was suffering from so severe a pain in his chest and sides that he had hardly been able to talk. But the symptoms passed away, and the next evening he dined with two English ladies in company with Dr. Nevin, the clergyman of the Episcopal church in Rome, and T. Adolphus Trollope, being apparently in perfect health and spirits, and taking an animated part in conversation. Christmas day he went to St. Peter's and stood several hours during the long ceremonies, dining in the evening with William W. Story and a party of American friends, telling his family when he got home that he had never enjoyed such a company more. Three days later he went alone to St. Paul's-without-the-

walls, where he remained till after dark, driving back in an open carriage. When he reached home he said that it had been a terribly cold drive, but he had felt no chill and passed the evening with Mrs. Dana and his daughters in their apartment. The next day he was taken with great pain in his chest, and the physician was summoned and pronounced it pleurisy. Two days later this had developed into pneumonia, and he was soon delirious; and continued so throughout the remainder of his illness, knowing none of his family. On the morning of the ninth day he sank into a stupor, and died at ten o'clock that evening.

One lovely afternoon in the spring of the preceding year Mr. Dana had visited, with his wife and daughter, the old Protestant cemetery where stands the pyramid of Caius Cestius, and where Shelley and Keats are buried; a spot than which none is more familiar to English-speaking visitors in Rome. As they stood there under the tall cypress-trees by the ruins of the old walls, looking across them to the city beyond, the air filled with the fragrance of flowers and resounding with the song of nightingales, Mrs. Dana said to her husband:—"Is not this the spot where one would wish to lie forever?" and he answered, "Yes, it is indeed!" And this spot his wife now selected for her husband's grave.

The funeral took place on the afternoon of Sunday, the 8th of January, in the Episcopal church, which was crowded with English and American friends. At the gate of the cemetery the children of the Gould Memorial Home, in which Mr. Dana had taken great interest, were standing, as the procession of mourners drew near. The Storys, the Richard Greenoughs, the Hickson Fields, and John Field and many Roman friends surrounded the grave, remaining till all was finished and the wreaths of flowers had been piled upon it. The stone that now marks it is of rough white marble, on the polished face of which, surmounted by a leaning cross, is cut this inscription:—

RICHARD HENRY DANA

OF BOSTON

UNITED STATES OF AMERICA

BORN AUGUST 1, 1815,

DIED IN ROME

JANUARY 6, 1882.

When his old partner heard in Boston of Dana's death, he wrote to his sister the following letter which, coming from a man who had known her brother most intimately for nearly forty years, and that man Francis Edward Parker, speaks the final word of him whose life was now closed, and of what he was and did and failed to do, more eloquently and with greater force and feeling than I can command. It is a fitting benediction.

"I can hardly feel that Mr. Dana's death is real. The habit of more than thirty years is hard to break. I find myself still involuntarily thinking, when I hear anything of public interest, I will write this to Mr. Dana. He is the only man whom I knew who took in the deep meaning of this world's ordinary life. The only person whom I could turn to when I was weary of the meanness and cheapness of present times. He was the only man of genius whom I ever well knew. He was the steadiest of friends, the most indulgent and most affectionate of those whom he once honored with his friendship. It is a great thing to have known such a man well. It is such a thing as never happens again to any one.

• 'Not another comfort like to this
Succeeds in unknown fate.'

"Baffled as he had been for more than twenty years, disappointed in every high ambition of his life, fallen on evil times and evil tongues, how bravely he kept his courage! I mourn that his great work, the only thing in which of late years he had taken a deep interest, should be unfinished,

and that the ploughshare should be left in the furrow. I mourn that he should have died before an end, an honorable end, was put to the Lawrence controversy.

“But he had a clear faith in another life, and how trifling to him now will seem all such things about which we are mourning!”

APPENDIX.

THE MASTER'S REPORT.

[THE manuscript report of the Master in the case of Lawrence *v.* Dana, as filed January 14, 1881, in the United States Circuit Court, District of Massachusetts, covers 211 quarto pages. It has never been printed. The following extracts therefrom relate solely to those notes in which infringements of the complainant's "equitable rights" were found, according to the rules prescribed by the court to govern the Master in his examination. The order in which the Master stated the points involved has, for the sake of clearness, been changed so far as to permit his citations from the notes in dispute, of the respective editors, and his remarks concerning them, to be presented in parallel columns. Every case of infringement is here given, also the Master's preface to his report and concluding remarks.

Certain variations from the exact text of the notes in the Master's citations have been indicated by inserting, within brackets, in their proper places, words omitted by him, and by italicising words supplied by him not in the originals.]

TO THE HONORABLE THE JUSTICES OF THE CIRCUIT COURT
FOR THE DISTRICT OF MASSACHUSETTS.

The undersigned, special master, in the matter of William Beach Lawrence *v.* Richard H. Dana *et al.* having duly notified the parties and having met them and heard their proofs and arguments, respectfully submits the following report.

The complainant claimed that certain notes in the last edition of Wheaton's International Law infringed his equitable rights within the meaning either of the first, — the second, — the third or the fourth rule in the decree of the Court and divided these notes accordingly into four classes.

The master has assumed that the Honorable Court did not mean to be understood as deciding that a citation by the respondent identical with one in a corresponding note of the complainant was necessarily an infringement of the rights of the latter, but that it might be an infringement upon sufficient evidence, although there was no other matter in the respondent's notes besides the citation.

It must be remembered that D. was to cover by his notes a period of eighteen years, since Wheaton published his last edition in 1848, fifteen years of which had been covered by the learned and exhaustive notes of the complainant. It is apparent, therefore, that if the second annotator discharged his duty with diligence and fidelity, there must inevitably be a strong resemblance between the two sets of notes and a large proportion of the citations must be common to both.

Direct and positive proof, as to where the second annotator found his citations or as to how far he traced them back, is not attainable. For he testifies, that if he now had the sheets, on which, as he was reading, he noted references to volumes and pages and sometimes to words, it would be impossible for him to tell to what author he was indebted for them. He further testifies that he does not mean to state, as matter of recollection that he examined the originals of all the citations which he put in his notes. "Indeed," he swears, "I know I have cited in the sense we have used that word, without quoting language, in a group of citations, at the end of a note or paragraph, works which I had never seen, and which perhaps no living person has ever seen."

It was therefore necessary to resort to indirect and circumstantial evidence. The respondent proved that he had referred to sixty-nine works and made two hundred and one citations, nowhere found in L. not including adjudged cases, treaties, statutes, speeches, diplomatic letters or transient matter, — that he had four hundred and seventy citations to authors, not impeached by L. (not including adjudged cases, treaties, statutes, diplomatic correspondence or speeches, — that he gives two hundred and four adjudged cases nowhere in L. or in Wheaton, twenty-three of which are re-citations, leaving one hundred and eighty-one new cases; that L. contributes one hundred and sixty-nine citations to adjudged cases not in Wheaton, of which thirty-one are re-citations, leaving one hundred and thirty-eight new cases contributed by L., — that D. has sixty-four citations of cases in

Wheaton which are not in L., which D. has used for purposes other than as used by Wheaton — (of these sixty-four, sixteen are re-citations) that D. has fifty-four (54) adjudged cases, which, though in L., are not impeached, — that D. has one hundred and twenty-two notes at places where L. has no note, — that D. has one hundred and two notes at places where L. has a note, but where Wheaton had placed a note, — that of these eighty-seven (87) are at the end of chapters or sections, that of D.'s two hundred and fifty-eight notes all but thirty-four are either where L. has none or where Wheaton as well as L. has a note.

It also appears that D. re-sectioned Wheaton's text — increasing the number of sections from two hundred and thirty-four to five hundred and fifty-one, — Wheaton's sections were numbered anew for each chapter, while D's sections are numbered continuously. As all Wheaton's cross-references were to the sections as numbered by him, D. was obliged to make new cross-references in every instance. Wheaton's sections were numbered anew for each chapter, while D's sections are numbered continuously. D. has given new or amended titles to two hundred and two sections. This was outside of D's contract. Of D's notes, one hundred and twelve are not impeached.

There are typographical errors in some of the citations in L. which are repeated in D. This fact is relied on as showing that D. simply transcribed from L. and did not consult the original. Such is undoubtedly the tendency of this fact. But the master has not regarded it as conclusive, for it might well be, that one having taken with him to a library, a citation found in L. or any other writer, and having found the place and the doctrine which he was seeking, would omit to correct the erroneous citation.

L. in many of his notes has referred to authorities in manuscript, and he testifies that he has never seen them in print. And there has been no attempt to rebut the inference, to be drawn from this testimony.

The master has assumed that the burden of proof is on the complainant to show copying by the respondent, and in doubtful or nicely balanced cases he has allowed much weight to the evidences of study and labor on the part of the second annotator where he has found them.

The master has endeavored to present as briefly as possible, the questions raised as to each of the notes assailed dividing

them into four classes,—and to state the proofs and counter-proofs relied on. In many cases he has ventured an opinion, after much hesitation.

NOTES OF THE FIRST CLASS.

[*Eleven of Dana's notes were impeached.*]

* * * * *

Sixth. Note 120, p. 291. The Author says "Where an empire is severed by the revolt of a province or a colony declaring and maintaining its independence, foreign States are governed by expediency in determining whether they will commence diplomatic intercourse with the new State, or wait for its recognition by the metropolitan country."

D's note is attached to this text. He refers to his note 16 "On Recognition of Independence," and note 41 on "Intervention in Mexico and Recognition of the Empire." He adds, "See also Mr. Buchanan to Mr. Rush, of 31st March, 1848; Mr. Webster to Mr. Rives, of Jan. 12, 1852; Mr. Everett to Mr. Rives of [17th February, 1863], Jan. 12th, 1863."

L. has a note of two pages at same place, note 117, p. 376. He says, "No difficulty [in recognizing a government *de facto*] can well arise with foreign States [when] where a prince, [though] claiming to be sovereign *de jure*, voluntarily renounces all attempt to exercise his rights," quotes from a notification addressed to the foreign Courts on the death of the Duke of Angoulême; gives an extract from letter of Mr. Buchanan to Mr. Rush, the 31st March, 1848, citing "Department of State MSS.; an extract from a letter of the date of Jan. 12, 1852, from the Secretary of State to the Minister, Mr. Webster to Mr. Rives, Cong. Doc. 1851-2 [Senate], Vol. iv., Doc. 19; and a short extract from instructions of Mr. Everett to Mr. Rives, 17 Feby., 1853, citing Department of

State MSS. It is observable that the dates are the same in both, save that the date of Mr. Everett's letter as given by D. is 1863.

Two of these letters are by L. quoted from manuscripts. D. does not say where these letters may be found.

* * * * *

Of these eleven notes the master finds that one alone infringes, viz., note the sixth. As it does not appear that the letters of Mr. Everett to Mr. Rives and of Mr. Buchanan to Mr. Rush have been published.—L. citing Department of State MSS. D. not saying where they may be found.

NOTES OF THE SECOND CLASS.

[*Three of Dana's notes of this class were impeached; but the Master reported none as infringements of the complainant's equitable rights.*]

* * * * *

NOTES OF THE THIRD CLASS.

[*Fifty-nine of Dana's notes of this class were impeached. The Master reported four as infringing the complainant's equitable rights.*]

* * * * *

Thirty-fifth. Note 117, p. 277, is of six lines.

D. says, "The treaty of Paris of 1856 applies the declaration of the freedom of rivers running between or through several States, by the Congress of Vienna, to the Danube, and opens it to the trade of all nations, with no duties founded solely on the right to navigate. It makes special provisions re-

L. has a note at the same place of more than a page—note 113, p. 349. He says, "The free navigation of the Danube had been one of the four points made the basis of the negotiation at the Congress of Paris. The principles of the Vienna treaties were applied to it [by the treaty of March 30,

specting police, quarantine, and customs duties, and the removal of physical obstructions to navigation. See also Art. 17 of treaty of 1857. Martens, *Nouveau Recueil*, xv. 647, 776 ; xvii. 75, 622, 632."

1856,] as follows." Then follows what purports to be Articles xv., xvi., xvii. and xviii. of the treaty of Paris, citing "Martens, par Samwer, *Nouveau Recueil*, tom. xv. pp. 647, 776." "The act of navigation of the Danube was concluded between Austria, Bavaria, the Ottoman Porte, and Wurtemberg, in pursuance of the 17th article of the treaty, on the 7th of November, 1857. It recognizes the freedom of navigation for vessels of all nations, which are to be treated in every respect on a footing of perfect equality. *Ib.* tom. xvi. part ii. p. 75. The European commission established, under the date of June 27th, and July 25th, 1860, provisional regulations of police for the lower Danube and a tariff of tolls at the mouth of the Soulina, without, however, terminating its labors. *Ib.* pp. 622, 632."

It is apparent that D. might have written his note without reading more than L's.

The 17th Article of the Treaty of Paris provides for a commission to be composed of delegates of Austria, Bavaria, the Sublime Porte and Wurtemberg — (one of each of the powers), to whom shall be added commissioners from the three Danubian Principalities whose nomination shall be approved by the Porte,

1. to prepare regulations of navigation and river police;
2. to remove the impediments, of whatever nature, which *shall* still prevent the application to the Danube of the arrangements of the treaty of Vienna;
3. to order and cause to be executed the necessary works throughout the whole course of the river;
4. *and* [Shall] after the dissolution of the European com-

mission, to see to maintaining the mouths of the Danube and the neighboring part of the sea in a navigable state.

D. cites Article 17 of the Treaty of 1857. There was no Treaty of 1857. The act of the navigation of the Danube was concluded in pursuance to the 17th Article [of the treaty between Austria, Bavaria, Turkey and Wurtemberg] 7th of November, 1857.

The citation of Martens Nouveau Recueil, xvii. 75, 622, 632, is a mistake, for these citations have no relation to the matter for which they were cited by D.

This has the appearance of a hasty transfer of citations from L's note.

* * * * *

Thirty-seventh. Note 122, p. 295, is a note of fourteen lines.

The note of D. was written on an interleaf. It might have been written, including the citations, from the three notes of L. D. does not indicate where the letters he mentions are to be found — nor does L. in all instances.

* * * * *

Forty-first. Note 131, p. 319, is of sixteen lines.

D. says, "Dr. Twiss (Law of Nations, i. § 203) states the present rule and practice somewhat differently" and then makes a quotation.

L., at same place, has a note of twenty-one lines — note 133, p. 416, in which he says, "The statement in the text does not accord with what we deem the correct rule on principle, nor with what was the usage in England during the Editor's official residence in that country." . . . The same extract from Twiss follows — except that the words "the rates" are substituted for the word "them." The first three paragraphs are from the text

of Dr. Twiss, the last three from his note on the same page. Though there is no indication of this in either.

D. directed the printer to reprint this extract from L. which was done, except that the word "*them*" in the quotation as made by Mr. Lawrence was changed for the words "*the rates.*"

"Them" is the word in the original.

D. would hardly have undertaken to correct the author he was citing, he must have supposed that a mistake had been made in copying, as he would not have substituted "*the rates*" for "*them.*" He probably did not take the trouble to compare the quotation of L. with the original.

* * * * *

Forty-fourth. Note 138, p. 338, is of twelve lines. The text says, "It is, consequently, an implied condition in negotiating with foreign powers, that the treaties concluded by the executive government shall be subject to ratification in the manner prescribed by the fundamental laws of the State."

D. says, "For this reason, the representatives of the United States are not willing to sign or receive declarations or other notes in connection with a treaty. If such [notes] can possibly affect the treaty, they should be communicated to the Senate, as a part of the compact. (Mr. Adams to Earl Russell, Aug. 23, 1861, on the

L. has a note of a page and a half — note 153, p. 454, and another note at the same place as D's of thirteen lines — note 154, p. 456. In the latter L. says: "It is not necessary to submit to the Senate, for its formal approval, conventions providing for the adjustment of private claims, unless such a course is indicated in the con-

declaration proposed to be attached to the convention on the subject of the Declarations of Paris;—U. S. Dipl. Corr. 1861, p. 136. See also Mr. Cass to Mr. Sandford, Oct. 22, 1859, Sen. Ex. Doc. 36th Cong. 2d Sess. No. 10. President Polk's message of Feby. 8, 1849, Cong. Globe, 1849, p. 486.) This subject was also discussed in connection with the Clayton-Bulwer Treaty, where the British Minister, in exchanging ratifications, sent a note of explanation to Mr. Clayton, to which the latter replied. Sen. Ex. Doc. No. 12, 32d Cong. 2d Sess. Also Mr. Wheaton's letter to the State Department, of 8th July, 1840, respecting the treaty with Hanover."

vention itself," citing "36th Cong. 2d Sess. Senate Ex. Doc. No. 10, p. 472. Mr. Cass to Mr. Sandford, October 22, 1859."

In note 153 L. says, "On occasion of the treaty concluded by Mr. Wheaton with Hanover, it was proposed to declare by a protocol, [. . .] that, though the treaty [had been] concluded in English and French, in case of any disagreement [. . .] the French [copy] should be deemed the original. It was, however, the opinion of Mr. Wheaton, in which the Secretary of State concurred, that no such declaration could be entered into without submitting the treaty anew to the Senate." — Citing "Mr. Wheaton to Secretary of State, 8th July, 1840. Department of State. MS."

He says, "On the exchange of the ratifications of the treaty of peace between the United States and Mexico, a protocol of the conference between the commissioners, embodying their opinion as to the operation of certain amendments of the Senate to the original treaty, was signed at Queretaro on the 20th of May, [1848.] . . . The President did not send the memorandum of the conferences, called a protocol, to Congress, when he communicated to them the treaty on the

6th July, 1848, because it was not regarded as in any way material, and had the protocol varied the treaty as amended by the Senate, it would have had no binding effect." Citing "Congressional Globe, 1848-9, p. 486."

In the next two paragraphs, he says: "In proceeding to [the] exchange of the ratifications of the convention, signed at Washington on the 19th of April, 1850, [between Her Britannic Majesty and the United States of America, relative to the establishment of a communication, by ship-canal, between the Atlantic and Pacific Oceans.']* Mr. H. L. Bulwer, the British Minister, says, he "has received Her Majesty's instructions to declare that her Majesty does not understand the engagements of that convention to apply to Her Majesty's settlement at Honduras, or to its dependencies. Her Majesty's ratification of the said convention is exchanged under the explicit declaration above mentioned. . . . It appears from the printed documents, that Mr. Clayton filed, on 5th of July, 1850, a memorandum [in the Department of State, stating] saying he had received the above declaration on day of its date; that he wrote, in reply, on the 4th July, a note acknowledging [that]

he had understood that British Honduras was not embraced in the Treaty of *the* 19th of April, but, at the same time, declining to affirm or deny the British title; and that, after signing the note of 4th [of] July, which he delivered to Sir Henry Bulwer, they immediately proceeded to exchange the ratifications of the treaty." Citing, "Cong. Doc. 32d Cong. 2d Sess. Senate Ex. Doc. No. 12, January 4, 1853."

In the next and last paragraph he quotes from a letter from Mr. C. F. Adams to Earl Russell, Aug. 23d, 1861, in which he gives his reasons for declining to attach a declaration to proposed convention of maritime law, citing, "Papers relating to Foreign Affairs, accompanying the President's Message, 1861, p. 123."

It is manifest on examination of D's note 36, on the Monroc Doctrine, p. 97, and his note 215, on the Neutrality and Foreign Enlistment Acts, p. 536, that he had made himself familiar with the Clayton and Bulwer treaty and with the history of its negotiation.

For the correspondence between Mr. C. F. Adams and Earl Russell, D. refers to U. S. Dipl. Correspondence in 1861, p. 126 [136], while L. refers to the Papers accompanying the President's Message.

For the letter of Mr. Wheaton to Secretary of State, 8th July, 1840, L. cites Department of State MS.

D. does not say where this letter may be found.

L., see Record, p. 125, says he has never seen the letter of Mr. Wheaton to Secretary of State in print. And it is not proved on the other side that it had been printed.

* * * * *

Of the notes of this class, the master finds that the *thirty-fifth*, note 117, p. 277; the *thirty-seventh*, note 122, p. 295; the *forty-first*, note 131, p. 319; and the *forty-fourth*, note 160, p. 417, [note 138, p. 388] do infringe the equitable rights of the complainant. That the *forty-seventh*, note 160, p. 417, in which is cited by the respondent the letter of Mr. Cass to Mr. Clay, Minister to Peru, Nov. 26, 1858, which the complainant had quoted and cited in manuscript; and that the *fifty-fifth*, note 232, p. 671, in which is cited by the respondent the letter of Mr. Wheaton to Mr. Buchanan, Secretary of State, July 1st, 1846,¹ which the complainant had quoted and cited in manuscript, do generally infringe the complainant's equitable right to the extent of such citations. But the master has not found satisfactory evidence of copying by the respondent in any of the notes in this class, or rather he has not found proof sufficient to overcome the presumption of innocence. There [are] of necessity many matters in common.

NOTES OF THE FOURTH CLASS.

[*Forty-one of Dana's notes of this class were impeached. The Master reported eight as infringing the complainant's equitable rights.*]

* * * * *

Sixth. Note 30, p. 77, is of a page. It is claimed that the first five sentences of D's first paragraph and his entire second paragraph are taken from L's note of six pages at the same place, note 38, p. 91, and his Addenda, 983, 984. Both notes are historical, though unlike, they contain coincidences of phraseology, such as "In 1848 an attempt was made," "Parliament met in May 1848," "with the approbation of the diet," "Austria, Wurtemberg, Bavaria and Hanover" in same order.

D. has a cluster of citations at the end of his fifth sentence "Annual Register, 1848, p. 362; 1848, pp. 347, 364; 1850, pp. 313, 320; 1851, p. 276." These are all at the end of the second paragraph of L's note, p. 92, in the same order, with two others not in D. L. encloses the pages of the Register to which he refers in brackets, or rather places a bracket after the pages.

¹ [This must be a mistake. The reference is to a letter in the next note 233, p. 674, which is not assailed.]

The Annual Register is a book, each volume of which is of two parts. One part has the numerals only, the other, the numerals with a bracket after them. D. testifies that he was familiar with the work. Did he obtain these citations from the book or from L.?

D. might have written these five sentences from L's note and as further proof that D. did not examine the books to which he refers, it is remarked that when he writes of events occurring since the last edition of L. was published, he states facts generally without furnishing any references or any means for verifying his statements. The answer is that when D. wrote, these events were generally too recent to be found in books.

The second and last paragraph of D. is taken from p. 95 of L. and his Addenda, 983, 984, as is contended. But D., p. 78, says, "The states of the second order began the movement in 1859, countenanced by Austria, Saxony taking the lead. Their proposition, known as the Dresden Project, was declined by Prussia." I do not find any authority in L. for the statement that this proposition was known as the Dresden Project.

At the end of his note D. cites "Le Nord, Aug. 15, Aug. 31, Oct. 18, Nov. 1 and 21, 1862." But L. cites Le Nord as authority for each of his several statements of fact, and he makes many which D. does not, and it is proved that D. has cited Le Nord only where it had been cited in L.

All D's citations of Le Nord are found in L. pp. 983, 984 and 985.

In the opinion of the master, the final paragraph of this note of D's does infringe the rights of the complainant.

Seventeenth. Note 108, p. 258, is of less than three pages on "Municipal Seizures beyond the Marine League or Cannon-shot."

L. has a short note at the same place—note 105, p. 323, in which the reader is referred to his note p. 266, note 105 of ten pages. It is claimed that some parts of D's note were taken from the two notes of L.

The notes appear to have been written for a different purpose and they have not much in common.

D. cites U. S. Laws 1797, Sect. 27; *Rose v. Himely*, 4 Cranch, 241; *Hudson v. Guestier*, *Ib.*, 293; *Church v. Hubbard*, 2 Cranch, 187; *Hudson v. Guestier*, 6 Cranch, 281. Neither of these is in L's notes; D. cites for Lord Stowell's opinion in the

case of *Louis*, 2 *Dobson*, 245. *L.* cites 246 *Stowell*, begins on p. 245.

Both refer to the opinion of *Dr. Twiss* in the *Cagliari* case. *L.* has a long extract from the opinion. *D.* quotes a part of *L.*'s extract.

It is in proof that both have omitted one and the same line of the original. *D.* nowhere indicates where the opinion may be found, nor does *L.* *D.* says, p. 260, "This subject was discussed incidentally in the case of the *Cagliari* which was a seizure on the high seas, not for violation of revenue laws, but on a claim somewhat mixed of piracy and war."

I do not find any authority for this in *L.*'s note.

Mr. Dana cannot tell where he got his quotation from the opinion of *Dr. Twiss*, and *Mr. Morse* had not seen it elsewhere. *Mr. Potter* (*Record* 158-9) swears that both omit one whole line of the original and neither notices the omission, that he never saw it printed entire in any book though he had seen a printed copy of it in *Mr. Lawrence's* library.

The master is of opinion that *D.* took the third paragraph of his note from *L.*'s note, and finds that this paragraph infringes the rights of the complainant.

* * * * *

Twentieth. Note 128, p. 303 is of more than half a page.

The first sentence is, "Heffter says that a minister in a Christian country has no authority to inflict penalties upon his suite and no jurisdiction to decide controversies of legal rights among them and between his fellow citizens residing in the country." (*Europ. Völker.* § 216) *De Martens*, § 215." To this there is no objection. The next sentence is, "Mr. Cass, Secretary of State, in a letter to Mr. Fay, the United States Minister at Berne of Nov. 12, 1860, takes the ground that a minister of the United States

L. has a note not at same word of the text, but to a preceding word in the same section, of near a page and a half — note 133, p. 398. In this note he quotes more than a page — citing *Mr. Cass* to *Mr. Fay*, Minister at Berne, Nov. 12, 1860. Department of State MS.

has no civil or criminal jurisdiction among his fellow countrymen or over his suite, and that what is called the extraterritoriality of the embassy relates only to what is necessary to the proper discharge of diplomatic functions and does not make the place of the minister's residence a portion of the United States in such a sense that private persons, by presenting themselves there for purposes of private contracts, whether of marriage or of business, can give to their acts exemption from the law of that country, or the sanction of the law of their own country. If the latter effect is produced it must be by force of Statute law. (U. S. Laws, xii. 72, act, 1860, ch. 179.)

There can be no doubt that the substance of the foregoing sentence is found in the quotation from Mr. Cass's letter in L. Mr. Lawrence testifies that to the best of his knowledge there has been no printed copy of this manuscript extract, save what was in his note. And there was no attempt to contest this evidence.

D. then devotes four sentences to the views of Dr. Woolsey — citing Woolsey's *Intro.* § 92. His last sentence is a statement of what the British Government claimed and admitted in the case of the coachman of Mr. Gallatin, the United States minister in London. D. does not say where the case may be found.

Mr. Lawrence testifies, "The case of Mr. Gallatin's coachman is also mentioned by D., p. 303. I give it in the addenda, p. 1006. — I have never known of its being stated elsewhere. It occurred while I was secretary of the legation, and the discussion with the foreign office was carried on by me. Gallatin's despatch and my private memoranda." *Record*, p. 124.

L., p. 1006, gives a brief history of the coachman's case, p. 1006, and from this D. might have written the last sentence of his note.

The master finds that the second and last sentences do infringe the rights of the complainant.

* * * * *

Twenty-second. Note 135, p. 324, is of more than half a page — in two paragraphs. The text speaks of Consuls in civil cases being subject to the local law in the same manner with other foreign residents owing a temporary allegiance to the State.

The author has a note at the same point, citing several authorities.

D. says, "As to the *status* of Consuls, and the privileges usually accorded to them in the practice of nations, for further authorities see *Twiss's Law of Nations*, i. 318. Woolsey's *Intern. Law*, 240-275. Heffter's *Europ. Völker*. § 244, a 249. Hallock's *Intern. Law*, 239-267. *Opinions of Attorneys General (U. S.)* vii. 22; viii. 16. *Martens, Guide Dipl. ch. XII.* §§ 72, 79. *Guide des Consulats (De Clercq et De Valla)*, i. 6-16. *Davis v. Packard*, *Peters's Rep.* vii. 276. *Valarino v. Thompson*, *Selden's Rep. (N. Y.)* 576.

L. has a note to the same word in the text. Note 143, extending from page 423 to page 437, a storehouse of learning. The citations in D. which are underscored are found in L. The others are not. L. has many citations which are not in D. L. gives a very full account of Dillon's case. For the Correspondence between Mr. Marcy and Mr. Mason and between Mr. Mason and M. Walewski, L. cites MS. and *Annuaire des deux Mondes*, 1853-4, p. 762; 1854-5, p. 732. Mr. Lawrence testifies that this is a correspondence which he has never seen elsewhere in print; and that his attention was directed to it by Mr. Marcy.

He then gives a short history of the case of Mr. Dillon, the French Consul at San Francisco. "After a long correspondence," he says, "the point was settled by instructions from the French govern-

ment to its Consuls to obey the subpœna in future cases." Citing *Mr. Marcy to Mr. Mason, Sept. 11, 1854*, and *18 January, 1855. Notes of Mr. Mason and M. Walewski, Aug. 3 and 7, 1855. Annuaire des deux Mondes, 1853-4, p. 762; 1854-5, p. 732.*

D. does not say where the correspondence may be found. D.'s second paragraph is not assailed.

The master finds that all of the note of D. after the first sentence does infringe the rights of the complainant.

* * * * *

Twenty-fourth. Note 143, p. 352, is of more than a page on the "Effect of war on treaties."

D. undertakes to indicate what treaties are and what treaties are not annulled or suspended by war. He quotes from Halleck (*Intern. Law, 371, 862*); from Kent (*Commentaries, i. 420*); from the opinion of the Supreme Court (in the case of the Society for the Propagation of the Gospel *v. New Haven, Wheaton's Rep. viii. 464*); from Woolsey (*Introd. § 152*). Says, "The older text-writers made the survival of treaty rights dependent on the origin of the war" — citing (*Grotius, liv. 3. ch. 20, §§ 27, 28*) and (*Vattel, liv. iv. ch. 4, § 42.*) Then follows a short commentary. He adds, "See also the debate in the House of Commons on

L. has a note of some three pages at same place. Note 160, p. 472. He has none of the citations in D., except those which are underscored. He has a quotation from Mr. Marcy's despatch to Mr. Mason, for which he refers the reader to Department of State MS. And this is a manuscript which Mr. Lawrence swears he never saw elsewhere in print.

The speech of Lord Derby so far as quoted by L. does not bear on any matter set forth in D. Both cite this speech as made Feby. 7th. Hansard gives it as made Feby. 6th.

L. quotes from Sir George Cornwall Lewis, p. 474, and from Mr. Bright. He also

the Declaration of Paris of 1856. *Speeches of Sir George Lewis and Mr. Bright of March 11 and 17, 1862, and of the Earl of Derby of Feb. 7, 1862. Despatch of Mr. Marcy to Mr. Mason of Dec. 8, 1856.* Phillimore's Intern. Law, iii. App. 21." quotes from Phillimore, citing International Law, vol. iii. p. 602.

The high probability is that D. took his references to the speeches of Earl Derby, Sir George Lewis and Mr. Bright from L's note, as also citation of Mr. Marey's despatch, and in the opinion of the master these citations by D. do infringe the complainant's rights.

* * * * *

Twenty-sixth. Note 156, p. 387, is of nearly two pages on "Enemy's Property found in the Country on the breaking out of War." At the same point Mr. Wheaton has this note. "Mr. Chief Justice Marshall, in *Brown vs. The United States*, Cranch's Rep. viii. 123-129."

D. in his first and second paragraphs gives the decision of the Court, and states the question upon which they were divided and quotes from Kent. These two paragraphs are not assailed. In the third paragraph he says, "Hautefeuille contends that the law of nations exempts from confiscation property found within the country on the breaking out of war, including vessels and cargoes afloat," citing *tom. iv. p. 267; tom. iii. p. 278*, and adds "it does not follow that the learned author considers his view to be sustained by the decisions of courts or practice of nations. He refers rather to treaties securing [the] exemption, and to L. has two notes, neither at the same place as D's, but near it — one, note 172, p. 530, of half a page — the other, note 173, p. 531. In the first of which he gives an extract from Earl Derby's despatch of Dec. 6, 1861, which embraces the quotations of D. — all that D. says of that despatch is found in said note 172. L. cites "Parliamentary Papers, 1862, Correspondence relating to Civil War in the United States, p. 108." The learning of D's paragraphs four and five may be found in L's note 173, except the last two sentences of the fourth, and in this note are found all the aforesaid citations by D. which are underscored,

the opinions of text-writers whom he considers sound and trustworthy."

In the fourth paragraph he says, "The English text-writers, like the American, are of opinion that the law of nations is not settled against the right, but, indeed, admits it. *Manning, Law of Nations, 167.* Phillimore, *Intern. Law, i. 115-135.*"

The fifth paragraph is devoted to the orders and declarations issued and made by the parties to the Crimean war — France and Great Britain — citing "*French Declaration of March 27 and British Declaration of March 29, 1854.*"

He says, "On her part, Russia allowed French and English vessels six weeks to load and sail from ports in the Black Sea, Baltic, [and] sea of Azof, and six weeks from the opening of navigation, to vessels in the White Sea." At the end of this paragraph are cited, "*Paris Moniteur, March 28, 1854. London Gazette, 18th April, 1854. Gazette du Commerce, 19th April, 1854. Hosack's Law of Neutrals, 57; App. 112. Ortolan, ii. 443-448.*"

In his next and last paragraph after a short commentary, D. quotes from a despatch from Earl Russell of 6th of December, 1861, to the British

and many others not found in D. There is no "Paris Moniteur." — It is the "Moniteur Universel"; but L. and Halleck cite it as "Paris Moniteur." — The Russian paper is called in Hosack, "Commercial Gazette." But L. and D. call it "Gazette du Commerce."

In L. the last citation is stated to be from second edition. The first citation is reprinted by L. from his edition of 1855, p. 371.

Consul at Richmond, Va., and closes by citing Parliamentary Papers, 1862, p. 108. He refers to his notes 157 and 169 *infra*.

D. in his third paragraph has two citations of Hautefeuille, tom. iv. p. 267; tom. iii. p. 278. He does not say which edition he refers to. It is in evidence (Record, 219) that tom. iv. p. 267 of the four volume edition is the same as tom. iii. p. 278 of the second edition.

The last two sentences of D's fourth paragraph are not found in L.

The master finds that the third paragraph infringes the complainant's rights, and that the others do not.

* * * * *

Thirty-seventh. Note 228, p. 637, is of twenty-four pages. Five paragraphs (p. 639) only are assailed.

First.

D. says, p. 639, "At the beginning of the Crimean war, the Declaration of Great Britain, of 28 March, 1854 (and that of France was to the same effect), was in these words, 'It is impossible [for Her Majesty] to forego the exercise of her right of seizing articles contraband of war, and of *preventing neutrals from bearing the enemy's despatches.*'"

L. has a note at the same word of the text, note 230, p. 805. He says, p. 771, "The preventing of neutrals bearing enemy's despatches was included with the seizing of articles of contraband, as an exception to the otherwise unrestricted freedom of commerce, conceded to them by the 'declarations' of England and France, and by the Order in Council, of the 15th of April, 1854." The language of the declaration is not there given, but in the note of L. 228, p. 771, he says, "The Ministers of Eng-

land and France communicated to the Secretary of State of the United States on the 21st of April, the declaration made on the 28th March." He then quotes from the declaration — and a part of L's quotation is the quotation of D.

Second.

D. says (p. 639), "At the beginning of the civil war in the United States, the royal proclamation of neutrality of 13th May, 1861, warns British subjects against carrying officers, soldiers, despatches, *arms, military stores*, . . . for the use of either of the contending parties," as "acts in derogation of their duty as subjects of a neutral sovereign."

L. says (p. 805), "The Queen of England's declaration of neutrality, in the present war between the United States and the Confederate States, includes in the same category with articles of contraband, "carrying of officers, soldiers, despatches, &c., for the use or service of either of the [said] contending parties." The words in D. underscored, viz: "arms and military stores" are not found in L. nor is the date of the declaration. But on page 698 of L. the date is given and words underscored are found.

Third.

D. (p. 639) says, "The decree of the Emperor of the French was more general," and gives a quotation from it.

L. (p. 699) says, "The French decree, as published in the *Moniteur*, June, 1861, was as follows." Then follows an extract of which the quotation of D. is a part.

Fourth.

D. (p. 639) says, "The Spanish decree of June 17, 1861, says, "The transportation of

L. (p. 699) gives the same date and the same quotation and more.

munitions of war is forbidden, as well as the carrying of papers or communications for the belligerents."

Fifth.

D. (p. 699) says, "The Declaration of Paris is silent on this subject. The proposed international code of Spanish America, of 1862, in connection with its recognition of the Declaration of Paris, had this provision: 'Besides the articles qualified as such, are to be deemed contraband of war commissioners of every description sent by belligerents, and the despatches of which they are the bearers.'"

D. does not indicate where any of these papers from which he quotes are to be found.

The master finds that the seventh, eighth, ninth and tenth paragraphs do infringe the rights of the complainant.

* * * * *

Fortieth. Note 240, p. 688, is of two pages.

D. gives a history of the case of the Cagliari, the opinions in brief of Dr. Twiss and Dr. Phillimore and finally his own opinion and the reasons therefor at some length. At the end of his note he cites, "Martens, Causes Célèbres, v. 600." Martens gives a history of the case but does not allude to Dr. Twiss or Dr. Phillimore. D. had Abdy's Kent, in which the history of the case is given,

L. (p. 951), "the questions raised by the affair of The Trent did not enter in any manner into the declaration of the Congress of Paris. . . . The proposed international code of Spanish America, while recognizing the principles of the Declaration of Paris, inserts a provision that" — Then follows in *ipsisimis verbis* the quotation of D. L. cites "La Crónica, 6 de Octubre, 1862."

L., pp. 267 and 268, gives the opinions of Twiss and Phillimore and in his index under the word Cagliari, refers the reader to p. 267. Neither of the experts has seen these opinions in any other book, and no one intimates where they are to be seen. It is not claimed that D. has taken from L. anything but the two sentences on p. 688 in which appear these opinions.

and a short extract from Dr. Twiss's opinion in the case; but it is no authority for the opinions as reported by D. The history of the case as given by D. is not found in L.

The master finds that D. was indebted to L. for his reports of the opinions of Dr. Twiss and Dr. Phillimore, and has, to that extent, infringed the complainant's rights.

* * * * *

The master has indicated such parts of the respondent's notes in the fourth class as he finds to infringe the rights of the complainant, and as to other parts of said notes he finds they do not infringe, either because he is satisfied they do not, or is not satisfied that they do.

He has endeavored to present the facts, the questions raised and the proofs and suggestions relied on by the respective parties, as briefly as is consistent with the proper discharge of his duty to the Court. Respectfully submitted.

H. W. PAINÉ.

MR. LOTHROP'S LETTER.

HOTEL JUNGFRÄUBLICK,
INTERLAKEN, August 25, 1890.

MY DEAR ADAMS, — It is extremely difficult for me at this distance of time and place to recall with certainty the events of nearly thirty years ago connected with Dana's acceptance of the office of District Attorney, and his administration of that office.

For the facts that the office was offered him, and that he was induced to take it, my best recollection and belief is that your father and Mr. Sumner were principally responsible; they both had a very strong desire to raise the standard of the United States office-holders in general, and particularly in Massachusetts, where they felt a certain responsibility for the appointments; and they believed that this could be done; and the nomination of Mr. Dana for District Attorney was, as I then under-

stood, at their instance. At their instance, too, was he induced to take the office. Nobody then foresaw our four years civil war, or the exact character of the questions of prize and the other semi-legal, semi-political problems which afterwards arose for discussion and settlement; but it was certainly Mr. Dana's opinion at that time, that the office of United States Attorney was likely in the then condition of public affairs, to be one of very considerable importance; and that he might be called upon in that capacity to take charge of matters very different from the ordinary routine of that officer's duties. He also felt that it was a time of great national peril, — a public crisis, when every man should serve his country in the way for which he was best fitted, and that he, personally, could probably render more efficient public service as District Attorney than in any place which was open to him. The pecuniary sacrifice which Dana made in taking this office and holding it all through the war was very great, and one of real importance to him; for he was without fortune and had a large family dependent on him, and had he been free, his professional position and his peculiar mental qualifications for the discussion and consideration of the class of questions coming before the courts during those years would have rendered certain his employment as counsel in such causes; while his income from his office was never more than one fourth of what he might easily have received during this period had he remained in private practice.

The number of cases of the kind which had usually occupied the time of the District Attorney, though greatly diminished from the outbreak of the rebellion and during the whole four years of the war, never wholly ceased, yet there were very few of them to which Mr. Dana was obliged to give his personal attention. There were some, however, in which he took a strong interest and a very active part.

During the first year in which he held office, the last slave-trading vessel ever fitted out in this country, the *Margaret Scott*, was condemned, and her master and owner both convicted, though when the vessel was first seized and her master arrested, it was thought that the evidence of her intended employment was so slight, that the case for the prosecution could be simply laughed out of court. But into the preparation and trial of this case, as into all the business of his office, during Mr. Dana's whole term, there was put the same energy and interest as if

the work had been done for a private client; and nothing was suffered to lapse into mere routine.

If, however, the old and familiar business of the office declined during Mr. Dana's term, the novel and difficult matters in which he was called upon to act, and the perplexing questions to be decided, were more than sufficient to occupy his time and thought. He had hardly been two months in office when the first arbitrary arrest, by order of the War Department, was made in Massachusetts, and these arrests continued from time to time, till nearly the close of the war. Upon all of them Mr. Dana was consulted, either by the Department or by the United States Marshal; and under Mr. Dana's judicious advice, and the Marshal's great tact and good sense, there was not, in a single instance, so far as I can recall, any feeling of personal bitterness or ill-will against either of these officers on the part of any of the individuals so arrested.

It was not till later that the cases of prize arose, in the argument of which Mr. Dana added such lustre to his own reputation, and rendered the government such signal service, at a most critical period, in a matter vital to the successful conduct of the war. I can hardly expect, writing after this lapse of time, and with no opportunity of consulting any of my own papers or any books, to state in any detail the questions arising in the prize causes. If such general account as I am able to give is not too inaccurate, it is all that I can hope. My recollections would be more full and trustworthy had I taken any professional part in these cases, but they were wholly and peculiarly Mr. Dana's.

In the winter and spring of 1861, when the various states seceded and Fort Sumter was fired on, and troops were first called for; and indeed in certain ways during the whole four years until the capture of Richmond, the United States government treated the whole matter as a mere rebellion, and so spoke of it in its despatches to foreign governments, insisting always that those governments should not recognize the Southerners as belligerents, or accord them any belligerent rights. On the other hand, the government claimed for itself, in its efforts to put down the rebellion, belligerent rights and powers, not merely against the rebels themselves, but against the whole world, and the citizens and subjects of all other countries; and insisted on its right to establish a blockade of the Southern ports and to seize and condemn as prize all vessels and their cargoes, of

whatever nationality, that might violate this blockade; both the right to blockade and to condemn as prize being admitted to be strictly and purely belligerent rights, the existence of which necessarily implies a state of war. To satisfy the Supreme Court that the government had these rights, without in his argument destroying or even weakening its claim, to treat as rebels its citizens in arms against it, was a difficult and delicate task, which was not rendered more easy by the common belief that the court was, at the outset, inclined to very different views; some of its members, perhaps, still hesitating in their conviction of the right of the government to employ force to prevent secession, and many of them, it was reported, inclined to consider the two positions of the government irreconcilable; to hold that the same events could not at one and the same time constitute both a war and a rebellion; and to decide that as the administration by its calls for troops to suppress the rebellion, and its other acts, had determined the Southerners to be rebels, the judiciary must follow this decision of a political question by the political department, and hold that there was no war in the strict legal sense of that term, and could be, therefore, no valid blockade and no lawful prize. It was feared, too, on the other hand, that, should the court decide that there was a state of legal war, a sufficient blockade, and that the captured vessels were lawful prize, their judgment might be rendered in such terms that it would be impossible to escape the conclusion that, in the opinion of our highest judicial tribunal, the state of rebellion no longer existed, but had become merged in the state of war. Either of these decisions, the government considered, would be disastrous. If the court should determine that there was no war, our blockade must come to an end, the Southern ports be open, and cotton be freely carried out, while arms and supplies were brought in by neutral vessels, and this meant the indefinite prolongation, one might almost say, the final success, of the rebellion. On the other hand, the government foresaw that if the court held that rebellion legally ceased when war legally began, and that there was actual and legal war, there would be great embarrassment for them in many ways at home; and they were also apprehensive that under these circumstances it would be practically impossible to prevent the recognition, by foreign powers, of the Confederate States as belligerents; and the consequences of the prestige they would thus have acquired, and of the injury we

should have received, no one could calculate. Mr. Dana's argument rescued them from their apprehended peril. It satisfied the court that the government could at the same time treat the South both as rebels and belligerents, without giving the owners of neutral vessels violating the blockade, or their governments, any just cause of complaint; and the reasoning of the opinion followed closely the line of the argument. His work in these causes was Mr. Dana's great contribution to the successful prosecution of the war, and its importance at that time can hardly be overestimated. It was not alone, however, in the settlement of these great questions that Mr. Dana rendered valuable public service in matters of prize. The business of the prize causes in Massachusetts was done with an economy, promptness and success, which found no rival elsewhere, and in consequence Boston became a favorite port to which to send prizes; and to Mr. Dana is due a full share of the credit for this.

His interest in the Prize Causes and in similar questions of belligerent rights and international law, and the reputation he had acquired in this way, led to his being asked to edit a new edition of Wheaton's international law. The previous editions of this work published after Mr. Wheaton's death had been edited by Mr. Wm. Beach Lawrence, a most diligent student, and an indefatigable collector of authorities, whose notes are a repository of references to everything written on any question of international law for many years. To these notes Mr. Lawrence had come to attach a constantly increasing value, magnifying their importance unduly, as Mr. Wheaton's family thought, in comparison with the original work, and practically taking the ground that if an edition of that book without his notes were possible it would be of no value. A new edition was needed, and Mr. Wheaton's representatives insisted upon a new edition, and asked Mr. Dana to undertake the work. It was practically a labor of love, the compensation offered him by the publishers hardly more than covering the editor's inevitable expenses; but Mr. Dana from his interest in the subject, and his appreciation of the book, was very glad to undertake it; and into his notes to this edition he put the best that he had. On the important topics treated in them his notes are exhaustive essays, to the preparation of each of which there went an almost incredible amount of labor. First came Mr. Dana's reading of everything accessible to him bearing on the topics under consideration, then

the digestion and assimilation of what he had read, — and with Mr. Dana these mental processes were thorough but not rapid, — then a draft of his note, and when he was fairly satisfied with this, its discussion with his brother Edmund, a lawyer in every way his equal in mental vigor and scholarly acquirements, who had passed many years at Heidelberg, was familiar with all the works of the German jurists, and had an exact knowledge of the force and meaning of their technical terms and phraseology. After these discussions the notes were often recast, some of them more than once; and before they finally went to press they were submitted to the criticism of Mr. Dana's father that their style and language might have the benefit of his admitted taste and judgment as an English scholar and purist. His work upon his notes to Wheaton was Mr. Dana's most absorbing occupation for two years or more; he devoted to it all the time he could spare from the duties of his office; and no editor of any law book ever labored more diligently or conscientiously, or put into his notes more or better original work.

Into the merits of the unfortunate controversy and litigation which followed the publication of his edition of Wheaton I have no wish or purpose to enter. Mr. Dana would never have denied his use of Mr. Lawrence's collections of citations, but these citations — mere lists of other persons' writings, — were in his opinion common property, and the labor and research employed in finding and collecting them he hardly regarded as intellectual work. No original thought or expression of Mr. Lawrence's is anywhere to be found in Mr. Dana's notes; nor does any idea of Mr. Lawrence's anywhere serve as a basis for, or seem to have suggested, any note or part of a note to Mr. Dana. But Mr. Lawrence's collections of citations are constantly reprinted exactly in the order in which they stand in the editions of Wheaton published under his supervision. This is, however, rather a technical illegality than a moral injustice, for had any one on Mr. Dana's behalf verified these lists by referring to the books cited he might then without reproach have reprinted them in the same order, so far as he found them correct. And it is gratifying to know that the report of the Master to whom the case was referred, made after a most laborious and exhaustive investigation, reduced to a minimum the invasion of Mr. Lawrence's copyright; if indeed there were any invasion at all. The report was never acted upon, and upon the death

of both the parties the litigation practically ceased. The whole controversy is the more unfortunate, as there is reason to believe that, had Mr. Dana thoroughly recognized the value and extent of Mr. Lawrence's labors, and publicly expressed his obligations for Mr. Lawrence's exhaustive researches, there would have been no difficulty and no lawsuit. It is much to be regretted that this was not done, and it must be admitted, I think, by Mr. Dana's best friends that his failure to perceive and acknowledge the advantage to himself, as well as to all students of international law, of Mr. Lawrence's diligence in research was unjust as well as unfortunate.

In spite of the time devoted to his work on Wheaton, Mr. Dana was able during these years to discharge all the duties his office required, and when he resigned he had the satisfaction of knowing that though no addition had ever been made to the number of his assistants, the whole work of the office in the busiest times had been done without the employment in a single instance of any additional counsel, or any professional aid from outside.

I have now given you, my dear Adams, my best recollections of Dana's district attorneyship, about which you ask me.

What I have written is all that I can do here. I wish you had applied to me before I came away. The whole thing is absolutely yours to treat and use in any way you like. I have only one request, that you will not let me in any way appear in print with any statement where your better knowledge shows my recollection to be inaccurate.

Very truly yours,

THORNTON K. LOTHROP.

P. S. Did ever a man suffer more than Dana from his mental peculiarities, perversities or obliquities, or whatever you choose to call them? He thought anybody could collect authorities, and that to do this was a day laborer's task; he used Lawrence's collections, and then despised his notes because they were mere collections of authorities, and at last thought himself under no obligation to him, because the notes were what anybody could have done, and so would not say the soft word that might have turned away wrath, but wrote instead what almost rendered a lawsuit inevitable;—and then Lawrence pursued him with a personal and political vindictiveness which ruined

Dana's career, lost him his only chance, and was to Lawrence, whatever became of his lawsuit, a perfectly satisfactory vindication. Two hundred and fifty dollars paid — — — or some other equally accurate man would have rendered any suit impossible ; and a little harmless and truthful flattery would have removed all desire for a controversy from Lawrence's mind. But the whole thing was very characteristic of one side of Dana's mind.

I may add that my recollection of the Prize Causes is very shaky. If I could have got hold of a brief or a volume of reports it would all have come back to me ; but my endeavors in this direction were in vain, and my recollections are rather of points talked over between Mr. Dana and myself in these and other like cases than of the actual argument of the cases. Dana, as you know, was always absolutely absorbed in the one thing he was doing ; and this question of — was there a war ? — could there be prize ? took absolute possession of him. It had been agreed between us that he should take charge of all such questions, and should not be troubled with the other office work except in cases of emergency, and that I should have charge of and be responsible for the other work, and from the outset the office was managed in this way during all the time I was there.

INDEX.

- Abbott, Henry L., Major U. S. A., ii. 273.
- Abbot, Josiah G., R. W. Emerson as a school-teacher, i. 5; in Massachusetts Constitutional Convention, opposition to the Supreme Court, 1853, i. 240, 242, 243; his services in the Convention, i. 249.
- Abbotsford described by Dickens, i. 32; visited by Dana, ii. 355.
- Abdy, J. T., letter to W. B. Lawrence on Dana's notes to Wheaton's Elements, ii. 367; his letter to Dana, 367, 368.
- Abetone, Italy, Dana's summer sojourn at, ii. 384.
- Abolitionists, i. 178.
- Achilles, British ship, rescues passengers and crew of the Mastiff, ii. 182.
- Achnasheen, Scotland, ii. 352.
- Adams, Charles Francis, named in memory of Francis Dana, ii. 128; chosen president of Buffalo Free Soil Convention, 1848, i. 137; nominated candidate for vice-presidency, 142, 143; Dana's visit to, at Quincy, 1849, 168, 169; a "Conscience Whig," 166, 168, 169; Free Soil Convention, Boston, 1849, 172; opposed coalition with Democrats by Free Soilers, 1849, 176; 193, 195, 219; opposes Constitution for Massachusetts framed by Convention of 1853, 234, 251; and Free Soil Convention, 252, 253; 343; member of Saturday Club, 167; his position at outbreak of rebellion, 252; Dana's letter to, December 26, 1860, 254; U. S. Minister to Great Britain, Dana's letters to, June 4, 1861, 258; November 25, 1861, 259; January 19, 1862, 261; March 9, 1863, on politics in Washington, ii. 264; concerning the blockade questions, March 9, 1863, 266, 267, 270; Dana's letter to, March 4, 1865, 274; Dana sends his Everett eulogy to, 278; his letter to Dana concerning Everett, September 14, 1865, 279; Dana's letter to, on reconstruction, June 3, 1865, 330; his reply, 331; Dana's letter to, April 14, 1867, 334, 335; Saturday Club, 359, 360, 382.
- Adams, Charles Francis, Jr., enters office of R. H. Dana, Jr., as a student, 1856, ii. 128; reminiscences of Dana, 128-153; conversation with Sumner, winter of 1860, 252; Dana at headquarters, Army of Potomac, 1864, 273; entertains Dana at dinner, Quincy, 1880, 382.
- Adams, John, opinion of New York politics, i. 63-64; relations with Francis Dana, 121; renunciation of the law for politics, 130; parallel between, and Dana, 131, 132; U. S. Minister at The Hague, ii. 129.
- Adams, Mrs. John, extract from letter of, ii. 83.
- Adams, J. C., in Federal Street Church case, i. 258.
- Adams, John Couch, ii. 27.
- Adams, John Quincy, obsequies at Boston, i. 121; his character, 121; visited at Washington by Dana, 1844, 123; characterized by Rufus Choate and Edward Everett, 123, 124; respect paid his memory at Buffalo Convention, 142; gives a son name in memory of Francis Dana, ii. 128; accompanies Francis Dana to St Petersburg, 1781, 129; relations of A. H. Everett with, 279; 382.
- Adams, Shubael P., in Massachusetts Constitutional Convention, 1853, i. 242.
- Aden, ii. 231.
- Adirondack Iron Works, 1849, i. 147, 148.
- Adirondacks, Dana's account of, 1849, i. 145-164.
- Adolphus, Mr., ii. 62.
- Advent, Church of the, i. 21.
- Advent parish, Boston, incorporated, i. 110; first service in new church of, 113.
- Africa, Red Sea, coast of, ii. 232.
- African Church, Richmond, ii. 341.
- Agassiz, Louis, and the Saturday Club, ii. 162, 166-168, 170; poem to, by Longfellow, read at Saturday Club, 168; 359, 360.
- Aikens, —, with Dana in the Adirondacks, i. 146, 152, 153, 154.
- Aix-la-Chapelle, Switzerland, ii. 382.

- Albert, Prince Consort, 1856, i. 358; at Aldershot review, ii. 50.
- Alcott, A. Bronson, i. 340.
- Aldershot, review at, ii. 49-53.
- Alert, ship, i. 14; at Boston, 1843, 67.
- Alexandria, Va., i. 107.
- Alexandria, Egypt, ii. 238.
- Allen, Judge Charles, a "Conscience Whig," *ibid.* 166; on course of Webster as to annexation of Texas, 173; re-elected to Congress, 1851, 193; in Massachusetts Constitutional Convention, 1853, 243; 347, 348.
- Alley, John B., i. 176, 229.
- Alloway Kirk, ii. 351.
- Allston, Washington, i. 2, 67; recommends publication of "Two Years before the Mast," 25; toast at Dickens dinner, 33; his home life, 71, 82, 83; death, 72; funeral, 73; his picture, *Belshazzar's Feast*, 74-82; his picture, *Uriel in the Sun*, ii. 33.
- Alps, ii. 243.
- Alvord, D. W., in Massachusetts Constitutional Convention, 1853, i. 243.
- Ames, Fisher, effect of politics on his professional career, i. 130.
- Amesbury, England, ii. 100.
- Amy Warwick, brig, prize case, before the Supreme Court, ii. 268; account of Dana's argument, 269, 413 *et seq.*
- Andrew, John A., i. 347; member of Saturday Club, ii. 167, 277.
- Anglesea, island of, i. 374.
- Anti-slavery Convention, Boston, 1843, i. 68, 69.
- Antwerp, ii. 245.
- Appleton, Nathan, at Macready's party, i. 112; influence on Webster in annexation of Texas question, 174.
- Appleton, Thomas Gold, comments on Charles Dickens, i. 31; 251; crosses the ocean with Dana, 1856, 360; his anecdotes and wit, 360 *et seq.*; ii. 110; a member of the Saturday Club, 166; 359.
- Appleton, William, ii. 248, 249, 256.
- Apthorp, R. E., letter to R. H. Dana, Jr., with gift of plate, in recognition of his defence of fugitive slaves, i. 292.
- Arabia, Red Sea coast of, ii. 232.
- Argyll, Duchess of, ii. 33, 36.
- Argyll, Duke of, ii. 14; shows Dana Stafford House, 32; 36, 37, 123.
- Arica, earthquake, ii. 346.
- Asburton, Lord, ii. 23.
- Aspinwall, Isthmus of Panama, ii. 178.
- Athenæum Club, London, ii. 59, 61.
- Atlantic Club, not the Saturday Club, ii. 163.
- Au Sable River, source of, i. 147.
- Avonmore, Lord, ii. 59.
- Ayr, Scotland, ii. 351.
- Babelmandel, Straits of, ii. 232.
- Bache, Alexander Dallas, i. 334, 337.
- Bache, Mrs., i. 337.
- Bacon, Francis, "Novum Organum," Dana's *vale mecum*, ii. 150.
- Baker, Edward Dickinson, Col., i. 329.
- Baltimore Convention, 1852, i. 217.
- Bancroft, George, at Dickens dinner, i. 33; O. A. Brownson's anecdote of, ii. 154.
- Bangor, Maine, i. 202.
- Banks, N. P., in Massachusetts Constitutional Convention, 1853, i. 233 *et seq.*; 347.
- Bannockburn, battlefield, ii. 354.
- Barnburners, political party, i. 165, 171.
- Barnum, P. T., i. 345.
- Barrett, Samuel, Dana's teacher, i. 2.
- Bartlett, C., i. 222.
- Bartlett, Sidney, court week at Dedham, i. 230; in Massachusetts Constitutional Convention, 1853, 233 *et seq.*; services in Convention, 250; in Federal Street Church case, 258; ii. 139; counsel for Mrs. Wheaton in suit brought by Lawrence, ii. 312.
- Bates, Moses, Jr., in Massachusetts Constitutional Convention, 1853, i. 239.
- Bates, Edward, Attorney-General of the U. S., ii. 268, 270.
- Bates, Dr., of Yokohama, ii. 219.
- Beattie, Hans S., assaulted by Bial, i. 329.
- Beck, Charles, Professor, i. 213.
- Bellowe, H. W., ii. 360.
- "Belshazzar's Feast," Allston's last picture, i. 74-82; inspected by Weir, 104; cleaned and restored, 104, 105.
- Ben Lomond, ii. 352, 363.
- Berwick-on-Tweed, ii. 355.
- Bethell, Sir Richard, ii. 13.
- Bevan, Robert Cooper Lee, ii. 55.
- Bhawoo Dajee, of Bombay, ii. 230.
- Biddles, Miss, i. 360.
- Bial, Louie, called also Varrell and Varelli, alias Louie Clark, captain of "Marshall's Guard," having custody of Anthony Burns, 1854, i. 303; his career, 303, 304, 328, 329; his complicity in the Huxford affair, 311, 313, 323.
- Bigelow, Judge George, in Federal Street Church case, i. 258; 354.
- Bigelow, Horatio, ii. 47.
- Bigelow, John, i. 172.
- Bird, F. W., influence in Free Soil party, i. 252.
- Bishop, Henry W., in Massachusetts Constitutional Convention, 1853, i. 239.
- Bishop, Judge, i. 274.
- Blackstone, Sir William, cited, ii. 281.
- Blair, Montgomery, ii. 273.
- Blair Athol, Scotland, ii. 352.
- Blaine, James G., votes cast for Presidential election, 1884, ii. 349.
- Blandford, Marquis of, ii. 13, 34.
- Blantyre, Lady, ii. 36.
- Bliss, William W. S., U. S. Army, Mexican War, i. 355.
- Blockade of Southern ports during the rebellion, ii. 266.
- Bodleian Library, ii. 72.

- Bomanjee Tramjee Camajee, of Bombay, ii. 229.
- Bombay, ii. 228-230.
- Bonaparte, Pauline, ii. 46.
- Bonney, Rev. Mr., at Canton, ii. 198; 202.
- Boston, political opinions affected by slavery question, 1848-1856, i. 127-129; social ostracism of anti-slavery leaders in, 238; on rendition of Anthony Burns, 280.
- Bouquet River, i. 146.
- Boutwell, George S., Governor of Massachusetts, i. 166; in Massachusetts Constitutional Convention, 1853, 236 *et seq.*, 247; ii. 339, 360; efforts to cause Dana's confirmation by the Senate, 369; Dana's letter to, March 16, 1876, 371, 373.
- Bouverie, Hon. Philip, ii. 55.
- Bowditch, J. Ingersoll, i. 13.
- Boyd, A. C., his English edition of Wheaton, ii. 327.
- Boyd, Colonel, i. 281.
- Brackett, —, makes cast of Allston's head, i. 74.
- Bradley, Chief Justice of Rhode Island, ii. 296.
- Bradley, Huxford's counsel, i. 323, 324, 325.
- Bragg, Braxton, U. S. Army, Mexican War, i. 336.
- Braham, John, singing at Boston, i. 30.
- Brattleboro', Vt., Dana's sojourn at, 1853, i. 231.
- Breed, Hiram N., in Massachusetts Constitutional Convention, 1853, i. 242.
- Brent, William, witness, Anthony Burns case, i. 262.
- Bridgeman, Sir Orlando, ii. 281.
- Briggs, George N., appoints R. C. Winthrop to the U. S. Senate, i. 165; his services in the Massachusetts Constitutional Convention, 1853, i. 250.
- Bristow, B. F., candidate for presidency, ii. 37.
- British men-of-war at Shanghai, ii. 213.
- British Museum, ii. 38.
- Brockhaus, publisher of Leipzig, charged with defrauding Mrs. Wheaton by W. B. Lawrence, 285; agrees to pay her honorarium, 285; restrained by Lawrence, 285; pays honorarium, 287.
- Brogie, M. de, ii. 340.
- Brompton County Court, ii. 62.
- Brook, —, at Buffalo Convention, i. 140.
- Brooks, Preston S., assault upon Charles Sumner, i. 358; ii. 248.
- Brown, Captain, of P. & O. S. N. Co.'s ship Madras, on poems of Poe, ii. 227.
- Brown, John, in Adirondack region, 1849, i. 145-164.
- Browne, Causten, counsel for Little, Brown & Co., in W. B. Lawrence's suit, ii. 313.
- Browne, H., ii. 101.
- Brownson, Orestes A., G. Bancroft, and B. F. Hallett, ii. 154.
- Brougham, Lord, ii. 22.
- Bruce, Sir James Knight, Judge of Court of Appeals, ii. 61.
- Bruce, Robert, ii. 354.
- Brussels, ii. 381.
- Bryant, William Cullen, efforts in publication of "Two Years before the Mast," i. 35; 350; ii. 248, 336.
- Buchanan, James, i. 347; ii. 251, 252; U. S. Minister to London, and the Oatend Conference, 174.
- Buckminster, Joseph, i. 356.
- Buddha, indifference to human affairs, ii. 204.
- Buens Vista, battle of, i. 335.
- Buffalo, N. Y., Free Soil Convention, 1848, i. 131-144.
- Bulloch, James D., ii. 173.
- Bunker Hill, i. 348.
- Burke, Edmund, ii. 68; Dana's lecture on, 149.
- Burlingame, Anson, i. 236; in Massachusetts Constitutional Convention, 1853, 239, 242; his services in the Convention, 249; with Dana when assaulted by Huxford, 282 *et seq.*, 308, 309, 325; candidate for Congress, 1860, ii. 248; refused by Austria, as Minister of U. S., 256; appointed to China, 256.
- Burns, Anthony, fugitive slave, i. 212; trial and rendition of, 262-265; Dana's closing argument in case of, 296-298; 341, 343; story after rendition, 344-346; ii. 147.
- Burns, Robert, country, visited by, Dana, 1870, ii. 351.
- Burr, Aaron, remarks of, on the bust of Hamilton, i. 227; 355.
- Butler, Benjamin F., at the Buffalo Convention, 1848, i. 138; in Massachusetts Constitutional Convention, 1853, 239, 242, 249; opinion of, as to duration of rebellion, ii. 259, 339; his career in Congress, 341-343; his "greenback" project, 342; opposed at election of 1868 by Dana, 343-349; attack on General Kilpatrick, 345; his election, 1868, 348; his election, 1876, 349; defeated in presidential election, 1884, 349, 362; opposes Dana's confirmation as Minister to England, 363-375; letter to Tribune, charges against Dana as editor of Wheaton's Elements, 366.
- Butman, Deputy U. S. Marshal, arrests Anthony Burns, i. 262.
- Byron, i. 350.
- Byron, Lord, idolized by the Greeks, ii. 339.
- Byron, association of his "Childe Harold" with Rome, ii. 384.
- Cabot, Elliot, ii. 359.
- Cairo, Egypt, ii. 233-238.
- Calais, France, ii. 111, 122.

- Calamity Pond, Adirondacks, i. 151.
 Campbell, John, Lord Chief Justice, invites Dana to Cambridge, ii. 24 *et seq.*
 Campbell, Thomas, i. 350.
 Cambridge, Duke of, at Aldershot review, ii. 51.
 Cambridge, England, ii. 24.
 Cambridge, Mass., Dana in 1852 establishes his home at, i. 213; speaks at political meeting at, November, 1860, ii. 248; in 1871, his home broken up, 356.
 Cambuskenneth Abbey, ii. 354.
 Cameron, J. D., ii. 364.
 Cameron, Simon, Chairman Committee of Foreign Affairs, U. S. Senate, ii. 363, 364; requests withdrawal of Dana's nomination as Minister to England, 369; his influence in causing Dana's rejection, 370, 373.
 Camoens' garden, Macao, ii. 211.
 Canning, George, Macaulay's anecdote of, ii. 65.
 Canton, China, ii. 193 *et seq.*
 Capri, ii. 384.
 Cardigan, Lord, ii. 14.
 Cardwell, M. P., ii. 34.
 Carlyle, Thomas, 1856, i. 349.
 Carpenter, General, of Rhode, Island, i. 200.
 Carter, Robert, i. 229, 271.
 Cass, Lewis, i. 165.
 Castellamare, ii. 383, 384.
 Cathedral towns, ii. 355.
 Catron, John, Associate Justice of the Supreme Court, ii. 267.
 Cecil, Lord Robert, ii. 13.
 Ceylon, Island of, ii. 227.
 Chambrun, Marquis de, ii. 334, 340.
 Champs de Mars, ii. 122.
 Chandler, Amariah, in Massachusetts Constitutional Convention of 1853, i. 235.
 Chandler, P. W., i. 286.
 Channing, Elizabeth, tombstone in Christ Church, Oxford, ii. 71.
 Channing, Professor Edward Tyrrel, i. 24, 213, 337, 349; ii. 149.
 Channing, George, tomb at Penang, ii. 226, 227.
 Channing, William Ellery, i. 24.
 Channing, W. F., i. 137.
 Charleote, England, ii. 76.
 Charles River frozen over, i. 106.
 Charlestown Flats case, i. 190.
 Chase, Salmon P., at Buffalo Convention, i. 138, 139; his war policy, 1863, ii. 265; aspirations for presidency, 265; 340.
 Cheever, light-house keeper, Isles of Shoals, i. 87 *et seq.*
 Cheney, John, hunter in the Adirondacks, i. 149, 152.
 Cherryfield, Maine, i. 202.
 Chesapeake and Shannon, i. 259.
 Child, Francis James, i. 213.
 Child, Lydia Maria, effort to buy Sims, the slave, i. 194.
 "Childe Harold," association with Rome, ii. 384.
 China in 1860, ii. 193-210, 221-226; industry in, 192; life at Canton, 194 *et seq.*; food, 199; executions in, 200; monasteries on White Cloud Mountain, 204.
 Chinese dinner, given by Yung Ting, ii. 206 *et seq.*
 Chinese passengers on the Mastiff, ii. 180 *et seq.*; one of, recognizes Dana at Hongkong, 212.
 Choate, Rufus, i. 64, 112; on J. Q. Adams as an antagonist, 123; case of Sims, fugitive slave, 189-190; oration at Story Association anniversary, 1851, 199; Webster memorial meeting, 222, 223; conversation with, concerning Seward, Webster, Hamilton and Burr, 226, 227; court week at Dedham, 230; in Massachusetts Constitutional Convention, 1853, 233 *et seq.*; speech on town representation, 236; comments on Dana's speech concerning the Judiciary, 239; his services in Convention, 1853, 246; in Federal Street Church case, 258; visit to, 1854, 259; naval affairs of war of 1812, 259; the case of Anthony Burns, 270; case of Captain Pitman, 340; lecture on old age of Rogers, 1856, 250; defends Judge Woodbury Davis, 351; in Dalton divorce case, ii. 140, 143; in case of *Sacco v. Provincial Insurance Co.*, 146.
 Clark, Louis, *alias* Lonie Bial, i. 273, 303-330. *See* Bial, Louis.
 Clarke, Edward, ii. 360.
 Clarke, James Freeman, member of Saturday Club, ii. 167.
 Clay, Henry, New York Birneyites prevent election to presidency of, i. 131; leader in compromise measures, 1849-1850, 165.
 Cleveland, Grover, votes cast for election of, 1884, ii. 349.
 Clifford, Nathan, i. 229; Attorney General, declines to engage in Anthony Burns case, 272; Associate Justice Supreme Court, ii. 267; in case, *Lawrence v. Dana*, 313; his opinion, 313; the character of his decision, 314, 318, 323, 325, 326; death, 326.
 Clough, Arthur Hugh, i. 227; a member of the Saturday Club, ii. 169.
 Cobden, Richard, ii. 13.
 Cockburn, Sir Alexander, ii. 46.
 Coleridge, Henry Nelson, ii. 30.
 Coleridge, Sir John Taylor, ii. 24, 28, 29, 30, 69, 91.
 Coleridge, Samuel Taylor, i. 350.
 Coleridge, Sara, ii. 30.
 Cologne, ii. 245.
 Concord, Mass., Universalist Society of, ii. 171.
 Confucius, worship of, in China, ii. 199, 200.

- Congress, conduct of, ii. 359; character of, 265.
- Conscience Whigs, i. 166, 176.
- Constitution for Massachusetts of Convention of 1853, defeated, i. 234.
- Constitution, U. S. frigate, i. 259.
- Cook, Professor, i. 213.
- Cooper, Hon. William, ii. 45.
- Copwell, Joseph, pilot, Isles of Shoals, i. 86.
- Corfu, Island, ii. 239.
- Corti, Count, Italian Minister to U. S., ii. 390.
- Cosmopolitan Club, London, ii. 23.
- Cotton Whigs and Webster in annexation of Texas question, i. 174.
- Cowper, William, tribute to, by Rufus Choate, i. 350.
- Coxe, Rev. Henry Octavius, Librarian of Bodleian, ii. 72.
- Craney, William, account of Philip Spencer, i. 58-63.
- Cranworth, Lord, on the bench of Court of Appeals, ii. 61; Dana, dines with, 65; 123; attentions to Dana.
- Craven, of Indiana, offered as a candidate for vice-presidency at Buffalo Convention, i. 142.
- Crawford, Mr. and Mrs. Thomas, i. 171.
- Credit Mobilier scandal, ii. 359.
- Crimes, war in, i. 358; ii. 47; veterans at Aldershot review, 50, 51.
- Crowell, Rev. William, rector of the Church of the Advent, i. 113; death, 209; reminiscences of, 209, 210.
- Crowninshield, George, i. 259.
- Crowninshield, Francis B., in Massachusetts Constitutional Convention, 1853, i. 240; his services in the Convention, i. 249.
- Crystal Palace, Sydenham, ii. 53.
- Cuba, Dana's visit to, 1859, ii. 172 *et seq.*; U. S. policy for acquisition of, 174.
- Curtis, Benjamin R., in case of Sims, fugitive slave, i. 189, 190, induction as judge, 208; definition of treason, 208; in case of Elizur Wright, 221; at bar meeting in honor of Webster, 223; his characteristics in legal argument, ii. 138; his compliment to Dana, 139 *et seq.*; counsel for W. B. Lawrence in suit against Dana *et al.*, 312.
- Curtis, C. P., i. 32.
- Curtis, George T., U. S. Commissioner in case of fugitive slave Sims, i. 185, 191, in case of fugitive slave Shadrach, 1851, 179; 182, 185, 190, 191; of Committee for Webster memorial meeting, 222; 223.
- Curtis, George William, i. 251.
- Cushing, Caleb, i. 251.
- Cushman, Charlotte, acts Lady Macbeth with Macready, i. 111.
- Daggett, Rev. Oliver Ellsworth, i. 43.
- Dalton divorce case, ii. 140.
- Dana, C. A., i. 177.
- Dana, Rev. Edmund, ii. 81, 83.
- Dana, Edmund Trowbridge, younger brother of R. H. D., Jr., i. 3, 4, 18, 72, 74, 75, 78, 79, 80; ii. 9, 366.
- Dana, Francis, i. 1, 2, 22, 122; ii. 81; relations with John Adams, i. 121; Secretary of Legation at The Hague with John Adams, ii. 129; his name given by J. Q. Adams to a son, 128; J. Q. Adams accompanies him to St. Petersburg, 129.
- Dana, Helen Kinnaird, wife of Rev. Edmund Dana, ii. 45, 81, 84.
- Dana, General J. J., ii. 271, 272.
- Dana, Martha Remington (Mrs. Allston), i. 2.
- Dana, Richard, great-grandfather of R. H. D., Jr., i. 1.
- Dana, Richard Henry, parentage, birth, and marriage, i. 2; his comments on his son Richard, 4; character of, 15, 22, 74, 109, 195; tribute to, by Choate in lecture on Samuel Rogers, 350; ii. 81, 148; dines with Saturday Club, Emerson proposes him an honorary member, 360; death, 380.
- Dana, Richard Henry, Jr., ancestry, i. 1; birth, 1; his character as a boy, 4; early school days, 2-10; 1831, at Harvard, 10; voluntary rustication, 11; 1832, studies with Leonard Woodie, 11; Sophomore at Harvard, 12; leaves college because of weakness of his eyes, 12; 1834, voyage before the mast, 13; effect of sea life, 14-17; 1836, return from California, 18; re-enters Harvard as a Senior, 18, 21; character and appearance in early manhood, 18, 19; religious convictions and church-membership, 19-21; 1837, life as a Senior, and prizes won at Harvard, 21, 22; his graduation part, 22; enters Law School, 22; recollections of Law School, 23; 1839, instructor of elocution at Harvard, 23, 24; 1840, in C. G. Loring's law office, 25; writes and publishes "Two Years before the Mast," 25, 26; begins practice of the law, 27; 1841, writes and publishes the "Seaman's Friend," 27; marriage, 28; 1842, trip to Halifax, 34-41; 1842, professional income, 43; lyceum lectures, Sources of Influence, and American Loyalty, 42; at Brighton, 1843, 45; at Milton, 45; 1842, case of the bark *Clarissa* Perkins, 46; 1843, at the Isles of Shoals, 84-101; 1844, visits Washington, Alexandria and Mount Vernon, 106, 107; summer trip in Maine, 109; love of the ocean, 110; lecture at Philadelphia, story of newspaper reporter, 114-117; 1848, beginning of his political life as a Free Soiler, 122; defines his political principles in letter to D. Lord, 124; his social relations affected by his anti-slavery opinions, 128; their ef-

- fect on his practice as a lawyer, 129; his political ambitions, 130; Dana and John Adams compared, 131, 132; the fugitive slave cases, 132-134; his province as a lawyer, 133; delegate to the Free Soil Convention, 1848, 135; his account of the Convention, 137-144; 1849, explores the Adirondack region, 145-164; prepares report sustaining the Wilmot Proviso, Boston Free Soil Convention, 172; 1851, speech at Worcester attacked, 198; 1852, his home and life at Cambridge, 213; his home in Berkeley Street, Boston, 215; meets Kosuth, 215; 1852, his account of Webster's funeral, 223 *et seq.*; 1853, elected delegate from Manchester to Massachusetts Constitutional Convention, 229; a leader in convention, 233; speech on town representation, 235, 236; criticised by G. S. Hillard, 237; his reply, 237; his letter to John Jay, February 12, 1854, condition of politics in Massachusetts, 252; review of elavery question in letter to Committee of Free Soil party, February 14, 1854; defence of Anthony Burns, 262-276; assaulted after the rendition of Anthony Burns, 282-284, 308, 309; the story of the detection and capture of assailant, 309-330; declines fee offered by Boston Vigilance Committee for defence of Anthony Burns, 291, 292; receives a gift of plate, 292; goes to the coast of Maine, 331-338; with Choate in defence of Judge Davis, 351; 1856, visits Europe, 357-378; ii. 1-127; reminiscences of, in 1856, 128; partnership with F. E. Parker, 130; his habits of work and life, 134-138; his peculiarities of practice, 138-144; contrast between him and B. R. Curtis, 138; in the Dalton divorce case, 140; his taste in literature, 135, 150; his scholarship, 149; in case of *Seccomb v. Provincial Insurance Co.*, 145-147; acquires property at Manchester, Mass., 148; his summer holidays there, 149; his religious belief, 151; his policy for Harvard College, 151; attitude towards modern scientific theories, 153; 1856, loss of health, 153; 1857, revisits Nova Scotia, his letter to Longfellow about Grand Pré, 170; 1859, trip to Cuba, 172 *et seq.*; loss of health, 176; 1859-1860, voyage round the world, 178-247; his return, 248; speech at political meeting, Cambridge, November 3, 1860, 249; letter of December 26, 1860, to C. F. Adams, on the national crisis, 254; his disposition towards congressional career, 256; April, 1861, appointed U. S. District Attorney, 257; letters to C. F. Adams, June 4, 1861, 258; November 25, 1861, capture of Mason and Slidell, 259; letter to C. F. Adams, January 19, 1862, 261; concerning Emancipation Proclamation, October 1, 1862, 263; March 9, 1863, politics in Washington, 264; March 9, 1863, the blockade of Southern ports, 266; argues question of "enemy property" in Amy Warwick case before Supreme Court, 269; the effect of his argument, and Justice Grier's remark upon, 269; letters to T. K. Lothrop, February 18 and 23, 1863, letter describing General Grant, April 21, 1864, 271; 1864, at headquarters of Army of Potomac, 272; letter to C. F. Adams, March 3, 1865, 274; delivers eulogy on Edward Everett, February 22, 1865, 278; 1866, resigns office of District Attorney, 282, 336; 1866, involved in controversy with W. B. Lawrence by editing the eighth edition of Wheaton's Elements of International Law, 282 *et seq.*; his relation with Mrs. Wheaton and family, 282; Lawrence attacks his arguments in Prize Cases, 289; accuses Dana of intending to cause his imprisonment, 289; invited by Mrs. Wheaton to edit the "Elements," 290; his method of work on his notes, 290, 311; his edition published, 1866, 291; made LL. D. by Harvard, 291; visits Scotland, 290; his indifference to Lawrence's charges of plagiarism, 291; his understanding with Mrs. Wheaton as to use of Lawrence's notes, 291; disclaims use of Lawrence's notes, 292; his means of obtaining material for his notes, 296; his account of interview with Lawrence, 297; his notes submitted to analysis by Lawrence, 300; suit brought by Lawrence for infringement of copyright, 302; declines to read a letter to Professor Parsons from Lawrence, 303; Dana ignorant of memorandum given by Miss Wheaton to Lawrence, 303; extent of plagiarism claimed by Lawrence, 305; documents filed in the case, 305; his view of his editorial functions, 307, 311; his opinion of the difference between his work and Lawrence's, 308; his opinion of Lawrence as a collector of material, 309, 417; indebtedness to Lawrence for the thought of his notes disproved, 310; his view of his rights and duties as editor, 311; represented by W. G. Russell as counsel in the trial of suit, 312; effect of the decision upon, 322; advised to undertake a new edition of "Elements," 322; the final argument of case, 325; vindicated by the report, 326; letters to C. F. Adams, June 3, 1865, on reconstruction of Southern States, 330; April 14, 1867, 334, 335; resigns office of District Attorney, 336; his desire to enter public life, 336; elected to Massachusetts Legislature, 337, 341; services to the State

- as legislator, 337; appointed to the prosecution of Jefferson Davis, 338; 1867, at Richmond, Va., for trial of Jefferson Davis, 339; 1868, nominated a candidate for Congress, 343; his campaign, 343-349; 1870, visits England and Scotland, 351; 1871, home in Cambridge broken up, 356; declines to write life of Sumner, 361; 1876, nominated Minister to England, 362; letter to his son concerning the English mission, 370, 374; letter to G. S. Boutwell, declining to appear before the Senate Committee on Foreign Relations, March 16, 1876, 371; nomination rejected by the Senate, 374, 375; 1877, appointed one of the U. S. counsel before the Halifax Fisheries Commission, 377; delegate to the Republican Presidential Convention, 377; review of his life, 378; letter to J. R. Lowell, August 17, 1878, on giving up his profession and his going to Europe, 380; winter at Paris, 380; 1879, his father's death, 380; visit to battlefield of Waterloo, 381; 1881, his life at Rome, 383; last illness at Rome, 386; 1882, death and burial, 386.
- Dana, Richard Henry, 3d, 280.
- Dana, Captain William Pulteney, ii. 81.
- Davis, Charles, Lieut. U. S. Navy, i. 103, 179.
- Davis, Charles G., in Massachusetts Constitutional Convention, 1853, i. 241.
- Davis, David, Associate Justice Supreme Court, ii. 267.
- Davis, Jefferson, ii. 276; prosecution of for high treason, 1867, 338; Dana associated with W. M. Everts in the case of the government, 338.
- Davis, John, i. 114.
- Davis, William, at Harvard Law School, i. 23.
- Davis, Judge Woodbury, removed from bench in Maine, 1856, i. 350.
- Dawson, Henry L., in Massachusetts Constitutional Convention, 1853, i. 233 *et seq.*; efforts to cause Dana's confirmation as Minister to England by the Senate, ii. 369.
- "Dead Rabbits" riot in New York city, 1857, ii. 155.
- Dearborn, Captain, ii. 217, 221.
- Dedham, Mass., customs and life during court at, i. 230.
- Dehon, William, in case of bark Clarissa Perkins, i. 46.
- Delano, Warren, of Russell & Co.'s house in China, ii. 207.
- Delfosse, Maurice, arbitrator at Halifax Fisheries Commission, 1877, ii. 377.
- Delta, Lake, Adirondack, i. 149.
- Democratic party, its power had Gattysburg been lost, ii. 274.
- Dent & Co., of Shanghai, take Dana in their steamer to Japan, ii. 213.
- Derby, Earl of, ii. 14.
- Davens, Charles, in case of Sims, fugitive slave, i. 194.
- De Witt, Colonel, i. 176.
- Dexter, Franklin, i. 35, 64, 67, 74, 77, 78, 79, 80, 105, 171; interested in case of Sims, fugitive slave, 186; consulted concerning removal of Judge Loring, 342.
- Dexter, Samuel, H. G. Otis' opinion of, i. 122.
- Dickens, Charles, first visit at Boston, 1842, i. 31; dinners in company with, 32, 33; original of "Fang" in "Oliver Twist," 32; character of, 33; public dinner at Boston given to, 33; 1867, a guest of the Saturday Club, ii. 167.
- Dickens, Mrs. Charles, i. 33.
- Diaraeli, Benjamin, ii. 13; speaks in House of Commons, 37.
- Dixey, master of the bark Misouri, trial of, i. 340.
- Domo, d'Oasola, ii. 243.
- Doon, River, Scotland, ii. 351.
- Dossaboy Merwanjee, a Parae of Bombay, attentions to Dana, ii. 229.
- Douglass, Stephen A., i. 251.
- Dover, England, ii. 110, 123.
- Dryburgh, Scotland, ii. 355.
- Dulany, Major William, in command of U. S. Marines, on rendition of Anthony Burns, i. 302.
- Dunblane, Scotland, ii. 354.
- Dunkeld Cathedral, ii. 352.
- Durant, Henry, ii. 140.
- Durham, England, ii. 355.
- Dutton, Warren, i. 77, 78, 80, 105.
- Dwight, John Sullivan, and the Saturday Club, ii. 162; his association with Emerson, 165; 359.
- Early Bird, Dana's voyage from San Francisco to Hongkong in 1860, ii. 191, 192.
- Eckley, David, i. 35.
- Edmands, General B. F., i. 276; in command of forces employed on rendition of Anthony Burns, 286.
- Edinburgh, ii. 351, 354.
- Edwarda, Pierrepont, i. 355.
- Egypt, ii. 233.
- Elgin, Lord, shows Dana the British Museum, ii. 38; causes the destruction of Chinese Summer Palace, 193.
- Eliot, Charles W., ii. 152, 359, 360.
- Elizabethtown, N. Y., i. 146.
- Ellenborough, Lord, ii. 14.
- Ellery, Elizabeth, i. 2.
- Ellery, William, i. 2; seconded Free Soil resolution, Congress of 1787, 137.
- Ellis, Charles M., aids Dana in the defence of Anthony Burns, i. 268, 272, 303, 304.
- Ellsler, Fanny, i. 35.
- Ellsworth, Maine, i. 202.
- Ely Cathedral, ii. 30.
- Emancipation Proclamation, Dana's opinion of, ii. 263; the nullity of, 264.
- Emerson, Ralph Waldo, as a school-

- teacher, i. 5, 340; lecture, "Stonehenge and Carlyle," 1856, 349; ii. 77; and the Saturday Club, 162, 164, 165, 166, 167, 169; at Saturday Club dinner on return from Europe, 1873, 359; proposes R. H. Dana, Sr., an honorary member of Saturday Club, 360.
- Esfield, England, ii. 93.
- England, Dana's first day in, 1856, i. 376-378.
- English anti-slavery opinions, 1856, i. 358.
- English courts of justice, London, ii. 61-65; the county courts, 62.
- English farmer, Dana's talk with, ii. 196.
- English mission, Dana nominated to, ii. 362-377.
- Eton, England, ii. 18.
- Eugénie, Empress, 1856, i. 359.
- "Evangeline" country, ii. 170.
- Evans, —, Captain of Boston Artillery, on rendition of Anthony Burns, i. 281.
- Evarts, William Maxwell, at Harvard Law School, i. 23, 170, 176; ii. 159; in charge of defence of Prize Cases before the Supreme Court, 1863, 268; the prosecution of Jefferson Davis, 338, 341; 376, 377.
- Everett, Alexander H., his relations with J. Q. Adams, ii. 279.
- Everett, Edward, characterization of J. Q. Adams, i. 124, 213, 264; ii. 15; Dana delivers a eulogy upon, February 22, 1865, 278; character described by C. F. Adams, 279.
- Farley, —, in the Elizur Wright trial, i. 222.
- Farrar, Mrs. Eliza Rotch, ii. 44.
- Federal Street Church case, i. 258, 352.
- Federalist party, i. 124; a Free Soil and Anti-slavery party, 125.
- Felton, Cornelius C., i. 112, 214, 227; and the Saturday Club, ii. 162, 169, 170; regard for, in Greece, 339.
- Fessenden, W. P., i. 253.
- Field, John, ii. 386.
- Field, Hickson, ii. 386.
- Fields, James T., i. 327; ii. 359.
- Fife, hills of, Scotland, ii. 352.
- Fillmore, Millard, i. 165; a candidate for nomination at Baltimore Convention, 1852, 217.
- Fish, Hamilton, Secretary of State, causes Dana to be nominated as Minister to England, ii. 363; friendly relations between him and Dana, ii. 364; refuses to withdraw nomination, 369.
- Fitzhugh, Mrs., i. 109.
- Fletcher, Judge Richard, and the case of Anthony Burns, i. 270.
- Floyd, John B., ii. 251.
- Flogging in the Navy, abolition of, i. 239.
- Forhan, French man-of-war at Shanghai, ii. 213.
- Forhee, J. M., ii. 359.
- Fort Sumter, ii. 251.
- Fortescue, Earl, ii. 46.
- Franconi's, Paris, ii. 116.
- Franklin, Lieutenant William B., takes Dana on a tour of inspection of light-houses, i. 331, 332.
- Free Soil movement, i. 122-144; partisans, social ostracism of, in Boston, 127, 134; party, meeting at Boston, 1848, 134; 165-177; convention, Boston, 1849, 172; meeting of leaders, Boston, September 1, 1849, 176; 1852, candidates for presidency and vice-presidency, named at Pittsburgh, 185, 219; 1853, attempt to elect members to Massachusetts Constitutional Convention, 228; 1854, convention at New York, 252, 254.
- Freeman, Watson, U. S. Marshal, i. 262, 267 *et seq.*, 298.
- French soldiery, ii. 115.
- "Friends in Council," ii. 228.
- Fugitive Slave Bill, discussed with Evarts, i. 176.
- Fugitive Slave Act, 1850, i. 165, 178; legislative measures considered to counteract it in Massachusetts, 184; accepted by Whig party at Baltimore Convention, 1852, 218; view of, December, 1860, ii. 255.
- Fugitive slaves in Boston, i. 178; Shadrach, 179-183; Sims, 185-195; Anthony Burns, 262-330.
- Furious, British man-of-war at Shanghai, ii. 213.
- Fueiyama, ii. 219.
- Galt, Sir Alexander, arbitrator at Halifax Fisheries Commission, 1877, ii. 377.
- Gardner, Henry J., i. 347.
- Gareloch, Scotland, ii. 353.
- Garrison, William Lloyd, i. 68, 69, 178.
- Gates, Dan, guide and hunter, Adirondacks, i. 149, 151, 152.
- Geneva, Switzerland, ii. 245, 382.
- Germantown, U. S. man-of-war, i. 231.
- Gettysburg, battle of, ii. 274.
- Geyle, Baron, travelling companion, i. 36.
- Giddings, J. R., at Buffalo Convention, i. 140.
- Gilmore, Patrick S., his Boston Peace Jubilee, 1872, ii. 356-358.
- Gladstone, W. E., i. 358; ii. 13, 35, 53, 123, 356.
- Goderich, Lord, ii. 13.
- Godkin, E. L., ii. 382.
- Goldsmith, Oliver, monument, Temple Church, ii. 10.
- Gould, Benjamin Apthorp, i. 213; ii. 162, 163.
- Gould Memorial Home, Rome, children of, at Dana's funeral, ii. 386.
- Grahame, Sir James, ii. 13, 34.
- Grant, Sir Hope, at Shanghai, ii. 213.
- Grant, Mrs. Robert, ii. 377.
- Grant, U. S., General, in 1864, described by Dana, ii. 271, 272; President; nom-

- inates Dana Minister to England, 1876, 362; refuses to withdraw nomination, 369, 376.
- Grasp of War speech by Dana, June 21, 1865, ii. 333.
- Grattan, T. Colley, with Dickens at Boston, i. 31, 33.
- Gray, Aaa, a member of the Saturday Club, ii. 167.
- Gray, Francia C., i. 32.
- Gray, Judge Horace, i. 282, 308; dinner with, August 16, 1865, ii. 334; 348, 382.
- Gray, Thomas, and Stoke Pogia Churchyard, ii. 20.
- Greece, Dana's glimpse of coast of, ii. 239; regard for Byron and Felton in, 339.
- Greeley, Horace, i. 177.
- Greenleaf, Prof. Simon, eulogy on Justice Story, i. 114, 223; his services in Massachusetts Constitutional Convention, 1853, 248.
- Greenough, John, i. 75, 78, 79.
- Greenough, Richard, ii. 386.
- Greenville, Maine, i. 206.
- Greenwich, England, ii. 56.
- Grey, Sir George, ii. 13, 35.
- Grier, Robert C., Associate Justice Supreme Court, ii. 267; his remark about Dana in Amy Warwick case, 269; impression made on, by Dana's argument, 270.
- Grimes, Rev. A. L., efforts to buy Sims, the slave, i. 194; 267, 272, 305, 344, 347.
- Griewold, Rufus W., i. 106.
- Griewold, Whiting, in Massachusetts Constitutional Convention, 1853, i. 244; 247.
- Grote, George, ii. 22.
- Guerriere, British frigate, i. 259.
- Gurney, E. W., ii. 359.
- Hakodadi, ii. 220.
- Hale, John P., candidate for presidency in the Buffalo Convention, i. 139; eulogized by Joshua Leavitt, 141; his name withdrawn, 141, 143; associated with Dana in Reacne Cases, 195, 212; nominated a candidate for presidency by Free Soil party, 1852, 219; the abolition of flogging in the Navy, i. 231.
- Haliburton, T. C., ii. 171.
- Halifax, Dana's summer vacation trip to, i. 34-41.
- Halifax Fisheries Commission, Dana appointed one of the counsel of the U. S., 1877, ii. 377.
- Hall, Dr., of Yokohama, ii. 219.
- Hallam's Works, a gift from colored citizens of Boston to Dana, i. 211.
- Halleck, Gen. H. W., writer on International Law, ii. 309, 316.
- Hallett, B. F., in case of Sims, fugitive slave, i. 188; at Dedham during court week, 230; in Massachusetts Constitutional Convention, 1853, i. 239; rendition of Anthony Burns, 286.
- Hallett, B. F., and G. Bancroft, ii. 154.
- Hamlin, Hannibal, ii. 229.
- Hamilton, Alexander, his poetic mind, i. 227; Burr's comments on seeing bust of, 227.
- Hamilton, Paul, Secretary of Navy, instructions to Hull, ii. 260.
- Hammond, Mr., of Merton, Dana's guide at Oxford, ii. 69.
- Hampton Court, ii. 58.
- Harcourt, Sir Vernon, opinion of Phillimore's work on International Law, ii. 317.
- Harding, Chester, i. 105.
- Harper Brothers, publishers of "Two Years Before the Mast," i. 25, 26.
- Harris, Ira, U. S. Senator, ii. 271.
- Hart, Captain of the Achilles, ii. 186.
- Hartford, U. S. man-of-war, in Chinese waters, ii. 193.
- Harvard College, rebellion of 1831, i. 10; Dana's influence as an overseer in, ii. 151 *et seq.*; gives Dana degree of LL. D., 291.
- Herrowhy, Lord, ii. 14.
- Heven, ———, attacks Dana for speech at Worcester, 1851, i. 198.
- Hawaiian Islands, ii. 186 *et seq.*; eruption of Mauna Loa on the Island of Hawaii, ii. 186 *et seq.*; glimpse of, on voyage to China, 191.
- Hawthorne, Nathaniel, i. 359; member of the Saturday Club, ii. 166; memory of, in Lowell's poem on Agassiz, 168.
- Hayden, Lewis, tried for rescue of Shadrach, 1851, i. 197, 198.
- Hayes, Rutherford B., ii. 376, 377.
- Hezlitt, W., "Table Talk," ii. 162.
- Heard, Augustine & Co., their palace at Macao, ii. 210.
- Heard, John, ii. 210.
- Heath, ———, detective concerned in the capture of Huxford, i. 309-329.
- Heathcote, Sir William, ii. 13, 34, 89, 94, 98, 106; Dana's visit at Hursley, ii. 85-98, 123.
- Hedge, F. H., ii. 360.
- "Heir of Redclyffe," i. 338, ii. 94, 150.
- Henderson, of the Adirondack Iron Works, death, i. 151.
- Henderson, Lake, Adirondack region, i. 148.
- Herbert, Colonel Percy, ii. 46.
- Herbert, Sidney, ii. 101.
- Herbert, Mrs. Sidney, ii. 103.
- Herriea, Lord, i. 35.
- Higginson, Thomas Wentworth, leads an attempt to rescue Anthony Burns, i. 271; 300 *et seq.*
- Hildreth, Richard, i. 346.
- Hillard, George Stillman, i. 33; 63; 74; 104, 112.
- Hillard, George S., of Committee for Webster memorial services, i. 222; attacks Dana in Massachusetts Constitutional Convention, 236; "the hand that feeds us," 237; his services in the Convention, 248; in Federal Street

- Church case, 258; on religious freedom in Massachusetts, 352-354.
- Hoar, Judge Ebenezer Rockwood, story of difference between Universalists and Unitarians, i. 349; member of Saturday Club, ii. 162, 169; recollections of Dana, 169; anecdote of the Concord Universalist Society, 171; runs for Congress, 1876, against Butler, 348; vote cast for, 349; 359, 360.
- Hoar, Senator George Frisbie, ii. 359; his efforts to cause Dana's confirmation as Minister to England, 359, 373.
- Hoar, Samuel, i. 172; 176; 200; opposed to Constitution framed by 1853 Convention, 251.
- Hobhouse, Mr., of Merton College, Oxford, ii. 69.
- Hoboken, N. J., i. 199.
- Holland, Sir Henry, ii. 46, 65; Dana breakfasts with, 68; his residence formerly Burke's, 68.
- Holmes, C. C., i. 45.
- Holmes, John, Emerson as a school-teacher, i. 5.
- Holmes, Oliver Wendell, recollections of Dana as a boy at school, i. 3, 5; the Saturday Club, ii. 162; 163; 167; poems in honor of Motley and Agassiz, 168.
- Holmes, O. W., Jr., ii. 382.
- Honam Temple, Canton, ii. 202.
- Hongkong, Dana's description of, ii. 192 *et seq.*; 212; 226.
- Hood, George, i. 239.
- Hooker, Richard, associations with the Temple, London, ii. 10.
- Hooper, Foster, i. 239.
- Hooper, Samuel, Member of Congress, 1861-1875, ii. 256.
- Hopkins, in Free Soil Convention, Boston, 1849, i. 172.
- Hornet, American sloop-of-war, i. 260.
- House of Commons, ii. 12, 34, 37.
- House of Lords, ii. 14.
- Howard, Hon. William, ii. 36.
- Howe, Estes, i. 171.
- Howe, Joseph, i. 356.
- Hows, Dr. Samuel Gridley, i. 63; entertains Kossuth, 215; Dana's letter to, February 14, 1854, declining to attend Free Soil Convention, 254; 271; 300; ii. 49; conversation with, on Greek revolution, 339; a member of the Saturday Club, 166.
- Howe, Mrs. S. G. [Julia Ward], i. 63
- Howqua, Dana visits the garden of, at Canton, ii. 197.
- Hudson River, source of, i. 147.
- Hull, Isaac, battle between Constitution and Guerriere, i. 259.
- Humphrey, A. A., General, ii. 273.
- Hunt, Holman, his picture, "The Scape Goat," ii. 40, 233.
- Hunter, Mr., at Macao, ii. 211.
- Huntington, Charles P., in Massachusetts Constitutional Convention, 1853, i. 242.
- Hursley Park, seat of Sir William Heathcote, ii. 89.
- Huxford, Henry, *alias* Bill Sullivan, arrested for assaulting Dana, i. 285; story of the assault, his arrest, flight, capture, and condemnation, 310-330.
- Inchture, Scotland, ii. 351.
- Indian Pass, Adirondack region, Dana's adventures in, 1849, i. 146; 147; 148; 152; 153.
- Ingham, Robert, of the Temple, London, ii. 9, 12, 13.
- Invalides, Hôtel des, Paris, ii. 121.
- Inverarnao, Scotland, ii. 353.
- Inverness, ii. 352.
- Iona, ii. 353.
- Irving, Washington, i. 359; ii. 77.
- Isles of Shoals, Dana's vacation holiday in, i. 84-101.
- Italy, Dana's last year in, ii. 382-388.
- Ives, Horace, i. 347.
- Jackson, William, in Free Soil Convention, Boston, 1849, i. 172, 176.
- James, Henry, ii. 359.
- Japan, ii. 213; theatre in, 215; streets and baths, 215; children, 216, 220; women's toilets, 216; school, 230.
- Jardin d'Hiver, Paris, ii. 117.
- Jay, John, Dana's letter to, concerning politics in 1854, i. 252.
- Jedburgh, Scotland, ii. 355.
- Jefferson, Thomas, Charles Francis Adams's opinion of character of, i. 169.
- Jenkins, Frederick, *alias* "Shadrach," i. 179.
- Johnson, Andrew, ii. 253; 328.
- Johuson, Captain, of the Mastiff, ii. 181; the burning of his ship, 182 *et seq.*
- Judiciary, debate on, in Massachusetts Constitutional Convention, 1853, i. 239; 240-243.
- Julian, George W., nominated a candidate for Vice-Presidency by Free Soil Party, 1852, i. 219.
- Juror, the faithful, i. 216.
- Kanagawa, ii. 219.
- Katrine, Loch, ii. 354.
- Keble, John, ii. 70; his vicarage and church at Hursley, 90; his "Christian Year" a *vade mecum* of Dana's, ii. 150.
- Keene township, N. Y., i. 146.
- Kellogg, Ensign H., arbitrator at Halifax Fisheries Commission, 1877, ii. 377.
- Kemble, Frances Anne, poem on Trenton Falls, ii. 160.
- Kenilworth, ii. 79.
- Kennebec River, i. 203.
- Kent, Edward, i. 351.
- Kent, Judge James, i. 176.
- Khwnn San, city, in China, ii. 225.
- Killiecrankie, Pass of, ii. 352.
- Kilpatrick, General Judeon, his speech at Salem, 1863, ii. 345.
- King, Rufus, mover of Free Soil Resolution in Congress of 1787, i. 137.

- King's College Chapel, Cambridge, ii. 29.
Kinglake, A. W., ii. 46.
Kinnaird, Hon. Arthur, ii. 45; enters Dana at "West Farm," ii. 55.
Kinnaird, Charles, Lord, ii. 81; Dana visits, at Rossie Priory, Scotland, 352.
Kinnaird, Hon. Helen, wife of Rev. Edmund Dana, ii. 45, 81, 84.
Knowlton, J. S. C., in Massachusetts Constitutional Convention, 1853, i. 241.
Kooloon (or Kowlung), Island of, ii. 212.
Kossuth, Louis, at Boston, i. 215.
- Labouchere, Henry, ii. 20, 36.
Labouchere, Lady Mary, ii. 36.
Lady of the Lake, incidents believed to be true by the people, ii. 354.
Lambton, Mr. and Miss, ii. 65.
Laudseer, Sir Edwin, ii. 59.
Lane, Professor G. M., i. 213.
Lanedowne, Marquis of, ii. 14; entertains Dana at dinner, ii. 45; 85, 123.
Lawrence, Abbott, i. 29; 112; a "Cotton Whig," 174.
Lawrence, Amos, defence of Anthony Burns, i. 270.
Lawrence, James, commander of the Chesapeake, i. 259.
Lawrence, William Beach, his relations with Henry Wheaton and family, ii. 283; his editions of Wheaton's "Elements of International Law," 283; disagreement with Mr. Little, 284; charges Brockhaus with violation of Mrs. Wheaton's rights, 285; determines to become owner of the entire work, 286; negotiates with Miss Wheaton and Professor Parsons, 286; obtains a memorandum from Miss Wheaton confirming title to his notes, 287; renounces his demand for an agreement from Mrs. Wheaton, 288; his opinion of his own notes, 288; 293, 294; replaced by Dana in editorship of "Elements," 289; regarded as a supporter of secession doctrines, 289; conflict with Dana over discussion of Prize cases, 289; charges Dana with an intention to cause his imprisonment in Fort Warren, 289; charges of plagiarism by Dana, 291; his position as a publicist, 293; specimens of his notes, 294, 295; his Leipzig editions of Wheaton and his "Commentaries," 295; interview with Dana, 297; his remarks during trial concerning the respondents, 318, 319; opposes Dana's confirmation as Minister to England, 363-375; death of, 326; 362.
- Lawrie, Rev. Thomas, sermon by, i. 34.
Leamington, England, ii. 73.
Leavitt, Joshua, member of Buffalo Free Soil Convention, i. 140-141; 143.
Lee, Charles Carter, i. 109.
Lee, Robert E., i. 109; ii. 274.
Leighton Brothers, settlers on the Isles of Shoals, i. 87 *et seq.*
- Lemmon case, before the U. S. Supreme Court, i. 299.
Leper village in China, ii. 205.
Leven, Loch, ii. 352.
Lewis, Charles B., "M Quad," i. 329.
Lewis, George Cornwall, i. 358.
Liberty Party, i. 176.
Lieber, Francis, i. 340; interested in Dana's edition of Wheaton, ii. 296.
Lincoln, Abraham, Dana hears of his nomination at Bombay, ii. 229; appoints Dana U. S. District Attorney, 257; want of personal loyalty to, in Washington, 1863, 264; 269; the lack of respect for, 270; 273; 274; 276; his foresighted reconstruction policy, 329; his power to emancipate slaves, 331.
Lincoln, —, officer U. S. Army, Mexican war, i. 335.
Lincoln Cathedral, Dana visits, ii. 247; Macaulay's liking for, 247.
Lindau, Dr., ii. 222.
Ling Nga Sau, hill near Suchan, China, ii. 224.
Linthgow, service in St. Michael's church at, ii. 354.
Little, C. C., 283; his disagreement with W. B. Lawrence as to 1861 edition of Wheaton's "Elements," ii. 284.
Little, Brown & Co., publishers of Wheaton's Elements of "International Law," ii. 283; suit brought against them by Lawrence for infringement of copyright, 302.
Liverpool, England, i. 374-376; ii. 123, 351.
Liverpool, Nova Scotia, i. 38.
Lodge, Henry Cabot, ii. 382.
Lomond, Loch, ii. 353.
London, Dana's first sight of, 1856, ii. 1 *et seq.*
London Docks, 43; 123, 246.
Long, Henry, i. 183.
Longfellow, H. W., i. 112, 215, 227, 251, 350; member of the Saturday Club, ii. 162, 166, 167; poem to Agassiz on his birthday, 168; 169; letter to, from Dana, after visiting Grand Pré, 170; 248; 359; 360; 382; Dana's letter to, July 6, 1874, declining to prepare life of Sumner, 361.
Lopez, Narciso, i. 314.
Lord, Daniel, i. 124-126, 170.
Lord, Otis C., his services in the Massachusetts Constitutional Convention, i. 249.
Lords, House of, ii. 14.
Loring, Charles G., in case of Sims, fugitive slave, i. 185, 188, 191; interest in Robert Morris, 210, 223, 270.
Loring, Edward G., i. 33; U. S. Commissioner, in the case of fugitive slave Anthony Burns, i. 265 *et seq.*, 296-298; removal from judgeship of probate court, 341-347.
Loring, Ellis G., i. 180.
Loring, G., i. 222.

- Lothrop, Thornton K., ii. 270; Dana's letters to, concerning Amy Warwick case, February 18, 1863, and February 23, vacation letter to, 280, 316; his reminiscences of Dana, 411 *et seq.*
- Louisiana question, 1865, ii. 276.
- Lowell, James Russell, Dana as a hoy navigator, i. 13, 213; entertains Thackeray, 1853, 227, 340; member of the Saturday Club, ii. 102; poem to Agassiz, 168; his memories of members of club, in his threnody on Agassiz, 168, 326; Dana's letter to, August 17, 1878, 380, 385.
- Lowell, Judge John, ii. 277, 326.
- Ludlow, Augustus C., first lieutenant of the Chesapeake, i. 250.
- Lumpkins, a Richmond slave trader, i. 287.
- Lunt, George, in trial of Rescue Case, 1851, i. 197, 223, 228.
- Lusiad, written at Macao, ii. 211.
- Lyell, Charles, i. 35.
- Lyman, Theodore, i. 63, 106.
- Lyndhurst, Lord, ii. 36, 46, 47.
- McCarthy, Justin, "History of Our Own Times" cited, ii. 193.
- McCullough, —, of the Temple, London, ii. 9.
- McDaniel, —, buys Anthony Burns at auction and sells him at the North, i. 344.
- McDonald, Sir Duncan, ii. 353.
- McGregor, M. P., ii. 59.
- McIntire, Mount, Adirondacks, i. 150.
- Mackenzie, Alexander Slidell, Commander of the U. S. brig Somers, trial for execution of Philip Spencer, i. 47-58, 103.
- McLean, John, a candidate of the Whig Free-Soilers for Presidency, i. 135; name withdrawn from consideration at Buffalo Convention, 139.
- Macready, W. C., at Boston, 1844, i. 110-113.
- Macao, ii. 210.
- Macaulay, Lord, Dana dines in company with, ii. 65 *et seq.*; his opinion of Lincoln Cathedral, ii. 247.
- Maine, coast of, Dana visits, in 1854, i. 331-338.
- Manchester, Mass., Dana represents in Massachusetts Constitutional Convention, i. 229; Dana acquires property there, ii. 148.
- Mann, Horace, interview with, concerning revision and republication of "Two Years Before the Mast," i. 117-120, 193.
- "Marble Faun," read by Dana at Rome, 1881, ii. 151.
- Marcy, W. L., and the Ostend Conference, ii. 174.
- Marcy, Mount, Adirondacks, i. 150.
- Maree, Loch, Scotland, ii. 352, 353.
- Maritime warfare, preferable to war on land, ii. 262.
- Marehal's Guard, having custody of Anthony Burns, lecture by Dana, i. 296, 330.
- Mason, J. M., capture on the Trent, ii. 260, 276.
- Mason, Jeremiah, i. 114.
- Mason, John Y., and the Ostend Conference, ii. 174.
- Massachusetts, the compromise measures of 1850 accepted by, i. 165; Constitutional Convention of 1853, 233-251; the Constitution reported, rejected by the people, 250; political parties in, 1854, 252; the winter preceding outbreak of Rebellion in, ii. 254.
- Massachusetts Historical Society, Dana's remarks before, on death of Josiah Quincy, ii. 278.
- Master, appointed by the U. S. Circuit Court in case Lawrence v. Dana. *See* Paine, Henry W.
- Mastiff, clipper ship, Dana takes passage in, for China, ii. 180; burning of, at sea, 182-186.
- Mather, Cotton, i. 19.
- Mauchline, Scotland, ii. 351.
- Manna Loa, volcano on island of Hawaii, eruption of, 1859, ii. 186 *et seq.*
- May, Rev. Samuel J., at anti-slavery meeting, i. 68.
- Meade, General G. G., ii. 273.
- Mediterranean, ii. 239.
- Melrose, Scotland, ii. 355.
- Merton Castle, Hursley Park, ii. 89, 93.
- Merrick, Judge Pliny, in the Dalton divorce case, ii. 140, 143.
- Metcalf, Mr., accompanies Dana to the Adirondacks, 1849, i. 145, 151.
- Metcalf, Judge, Theron, i. 184; on religious freedom in Massachusetts, 354.
- Metcalf, Mrs., funeral of, ii. 154.
- Mexican War, accounts of, by Lieutenant Franklin, i. 334-337.
- Milan, ii. 242.
- Miller, Samuel F., Associate Justice of Supreme Court, ii. 267.
- Mills, John, i. 137, 138.
- Mincius, Chinese philosopher, ii. 200.
- Minot, George, i. 185.
- Mohammed, descendants of, distinguished by a gold crown, ii. 230.
- Mok Tok, Chinese town, ii. 224.
- Monasteries on White Cloud Mountain, China, ii. 204.
- Monteagle, Lord, ii. 46.
- Moore, Michael, of Trenton Falls, ii. 159.
- Moose-hunt, i. 202-207.
- Morea, ii. 239.
- Mormon elder, address on steamer crossing the Atlantic, 1856, i. 360; 372, 373.
- Morpeth, Lord, i. 27, 29.
- Morris, Charles, U. S. N., i. 259.
- Morris, Robert, in "Shadrach" case, i. 180; tried for rescue of "Shad-

- rach," 198; acquitted, 210; letter presenting to Dana a copy of *Hal-
lam's Works*, 211.
 Moree, Samuel F. B., i. 81, 82.
 Morton, Governor Marcus, i. 176; in
*Massachusetts Constitutional Con-
vention*, 1853, 233 *et seq.*, 239.
 Morton, Marcus, Jr., in *Massachusetts
Constitutional Convention*, i. 242.
 Motley, J. Lothrop, member of the
Saturday Club, ii. 162; 356; entertains
 Dana at dinner, 356.
 Mout McIntire, Adirondacks, i. 150.
 Mount Marcy, same as Mount Tahawue,
 Adirondacks, i. 150.
 Mount Vernon, i. 107.
 Mount of Martyrs, Nagasaki, ii. 214.
 Mount Washington compared with
 Mount Tahawue, i. 149.
 Mull, ii. 353.
 Mummies, General Kilpatrick's account
 of Chillian, ii. 346.
 Murthly Castle, Scotland, ii. 352.
 Nagasaki, Japan, ii. 213-216.
 Names of places improper, i. 150.
 Naokin, ii. 224.
 Naples, ii. 383; 384.
 Napoleon III., 1856, i. 359.
 National Gallery, London, ii. 110.
 Navarino, Bay, ii. 239.
 Neal, John, i. 331.
 Nebraska Compromise Bill, meeting of
 protest at Boston, 1854, i. 257.
 Nelson, Admiral Horatio, collection of
 relics of, ii. 59; his ship, the *Victory*,
 at Portsmouth, 108.
 Nelson, Samuel, Associate Justice Su-
 preme Court, ii. 267.
 Nevin, Rev. Dr., at Rome, ii. 385.
 Newcomb's farm, Adirondack regioo,
 i. 149.
 New York city, riot in, 1857, ii. 155.
 Nicholas, Commodore, U. S. N., i. 231.
 Nicoll, Henry, i. 177.
 Nile, ii. 236.
 Nimrod, British man-of-war at Shanghai,
 ii. 213.
 Noel, Rev. Gerard, ii. 92.
 Norfolk, Duke of, ii. 36.
 Northcote, Sir Stafford, ii. 13.
 Norton, Mrs. Caroline, ii. 33.
 Norton, Charles Eliot, i. 214.
 Ohan, ii. 353.
 O'Brien, John P. J., U. S. A., Mexican
 war, i. 336.
 Opalescent, a stream in the Adiron-
 dacks, i. 151; 152.
 Orkney, case of the, and the rule of the
 road at sea, i. 289; 290.
 Orne, Charles W., of Russell & Co.'s
 house in China, ii. 194; 207.
 Osgood's Tavern, in Adirondack region,
 i. 146.
 Ostend Conference, ii. 174.
 Otie, Harrison Gray, conversation with,
 i. 30; attends Free Soil meeting
 (1848), 122.
 Otie, William F., remark about Dr.
 Croswell, i. 210.
 Otterbourne, England, ii. 94.
 Owen, Mr., of Canton, account of Chi-
 nee executions, ii. 200.
 Owen, Robert Dale, ii. 360.
 Oxford, ii. 68, 355.
 Paine, Henry W., i. 351; appointed Mas-
 ter to examine the extent of Dana's in-
 fringements of Lawrence's copyright,
 ii. 321; his qualifications for the work,
 321; his private opinion of the case,
 324; his report submitted, argued
 and filed, 325; 350; extracts concern-
 ing cases of infringement, 389.
 Palfrey, John G., a "Conscience Whig,"
 i. 166; 169, 171, 172, 176; 193, 213;
 opposes the Constitution reported by
 the Convention of 1853, 233; 251;
 Free Soil Convention of 1854, 252,
 253; ii. 10, 16, 22, 41, 44.
 Palmer, Sir Geoffrey, ii. 281.
 Palmer, Roundell, ii. 13.
 Palmerston, Lord, i. 358; ii. 13, 38.
 Panama, ii. 179.
 Paris, 1856, ii. 112 *et seq.*; 1878-79,
 winter at, 380.
 Parke, James. *See* Wensleydale.
 Parker, Edward Griffin, counsel for
 claimant of fugitive slave Anthony
 Burns, i. 266, 272.
 Parker, Francis Edward, i. 179; Dana's
 law partner, 1856-1861, ii. 130; his
 appearance and character, 130; habits
 of life, 131; his ability, 132; his esti-
 mation of Dana, 133; contrast be-
 tween Parker and Dana, 133; 152,
 172, 176; reports to Dana a compli-
 ment paid him by Judge Sprague,
 277; 382; letter to Miss Dana, after
 her brother's death, 387; his death,
 132.
 Parker, Henry Tuke, announces Dr.
 Croswell's death, i. 209; ii. 2, 16, 22,
 23, 41, 43, 44, 48, 49, 56, 68, 69, 123.
 Parker, Judge Joel, in *Massachusetts
Constitutional Convention*, 1853, i. 237,
 243; his services in Convention, 247.
 Parker, Joel, Governor of New Jersey,
 1863-1866, ii. 275.
 Parker, Joseph, ii. 22.
 Parker, Theodore, i. 215; sermon in
 eulogy of Webster, 226; 271.
 Parker House, the rendezvous of the
Saturday Club, ii. 162.
 Parkman, Francois, ii. 47; 359.
 Parsons, Theophilus, i. 2; represents
 Mrs. Wheaton in negotiations with W.
 B. Lawrence, ii. 286; 288.
 Peabody, George, entertains Dana at
 dinner at Richmond, ii. 48.
 Peace Jubilee, Boston, 1872, ii. 356-358
 Peacock, British sloop-of-war, i. 260.
 Peel, Frederick, ii. 13.

- Peel, Sir Robert, ii. 13.
 Peirce, Benjamin, i. 213; member of the Saturday Club, ii. 162.
 Peloponnesus, ii. 239.
 Penang, Island of, ii. 226.
 Perkins, C. C., ii. 360.
 Perkins, Edward, ii. 369.
 Perkins, Thomas H., i. 74.
 Perry, Commodore M. C., and Philip Spencer, i. 61.
 Persia, steamship, Dana returns home from Europe in, ii. 123; life on board, 124-127.
 Personal Liberty Bills, their repeal by western Republicans demanded, winter of 1860, ii. 254.
 Perth, Scotland, ii. 362.
 Peterborough, ii. 355.
 Phi Beta Kappa Society dinner, 1852, i. 200.
 Phillimore, Sir Robert, ii. 309, 316; Vernon Harcourt's opinion of his work on international law, 317.
 Phillips, Stephen C., at Buffalo Free Soil Convention, i. 137; a "Conscience Whig," 166, 172; anecdote of Webster and Texas annexation, 173; opposed to coalition between Free Soilers and Democrats, 1849, 176.
 Phillips, Wendell, i. 68, 267; offers Dana a fee on behalf of the Boston Vigilance Committee for his defence of Anthony Burns, 291; attempts to prevent a premature effort to liberate Anthony Burns, 301.
 Phillips, Willard, ii. 346.
 Pierce, Franklin, i. 218; elected President, 226.
 Pierce, Henry L., ii. 368.
 Pierce, Dr. John, account of Dana's graduation part, in diary, i. 22.
 Pierrepont, Edwards, ii. 364.
 Pierson, J. H., owner of Sims, fugitive slave, i. 194.
 Pilgrim, brig, Dana's first ship, i. 14.
 Pitman, Captain, of bark Missouri, tried for embezzlement, i. 340.
 Pitts, Coffin, Desoon, i. 267.
 Point de Galle, Ceylon, ii. 228.
 Political parties in 1848-1854, i. 122, 126; disintegration of, 131.
 Port Royal, battle of, ii. 259, 260.
 Portsmouth, England, ii. 107.
 Potter, Bishop Alonzo, recommends the Harpers to publish "Two Years Before the Mast," i. 25.
 Pratt, Mormon elder, address on Atlantic steamer, 1856, i. 360; 372, 373.
 Preacott, Eustis, i. 37.
 Prescott, William Hickling, i. 32, 63; member of Saturday Club, ii. 166.
 Princeton, explosion on the U. S. ship, i. 106; funeral of killed, 109.
 Prize Cases, 1863, Dana's service in, ii. 266.
 Pulaski, ii. 339.
 Pulazky, Francis Aurelius, with Keesuth at Boston, i. 215.
 Pulteney, Sir William, ii. 81.
 Puntingua, the gardens of, at Canton, ii. 198.
 Pusey, Dr., ii. 69, 73.
 Pu Si, city of, ii. 223.
 Pyramids, ii. 236.
 Quincy, Edmund, defends Dana on charge of mercenary motives in taking the Rescue Cases, i. 212, 213, 227; a member of the Saturday Club, ii. 167.
 Quincy, Josiah, President of Harvard College, i. 10, 29, 33, 112, 167, 168; eulogy on Joseph Story, 200; at Anti-Nebraska meeting, 1854, 253; consulted as to remonstrance against removal of Judge Loring, i. 342; letter to Dana, November 6, 1860, ii. 249; 278.
 Quincy, Josiah, Jr., presides at Dickens dinner, 1842, i. 33.
 Quitman, General J. A., i. 314, 319, 320.
 Rachel, at Boston, 1855, i. 348.
 Randolph, John, anecdotes of, by Josiah Quincy, i. 168, 258.
 Rantoul, Robert, in case of Sims, fugitive slave, i. 185, 186, 191; Dana writes chapter on Sims trial for Memoir of, 231; in Massachusetts Constitutional Convention, 1853, 233 *et seq.*; Rebellion in U. S., winter preceding outbreak, ii. 250; aspects, North and South, preliminary to, 251; temper of people, 251; positions of Northern leaders, 252; divergence of policy among leaders, 252; constitutional questions in Prize Cases, ii. 266; results of suppression, ii. 275.
 Reconstruction of Southern States after civil war, ii. 280, 328-335.
 Redesdale, Lord, ii. 14.
 Red Sea, ii. 232.
 Reeve, Henry, ii. 23.
 Republican party, ii. 250, 328.
 Rescue Cases, trial of persons charged with rescuing Shadrach, i. 195-199, 208; Webster's influence in the prosecution of persons indicted, 228.
 Richardson, Henry Hobson, a member of the Saturday Club, ii. 167.
 Richmond, England, ii. 48.
 Ridgley, Samuel C., Major, in command of U. S. troops on rendition of Anthony Burns, i. 302.
 Riley, Pat., deputy marshal, 1851, i. 179, 180, 181.
 Riot in New York city, 1857, ii. 155.
 Ripley, George S., i. 170, 177.
 Robinson, Charles, Governor of Kansas i. 352.
 Robinson, Mr., collector of Nelson relics, ii. 59.
 Robinson, a fugitive slave, i. 287.
 Roebuck, John Arthur, ii. 13, 35.
 Roebuck, British man-of-war, at Shanghai, ii. 213.

- Rogers, Samuel, lectures on old age of, by Rufus Choate, i. 350.
- Rome, Dana's last winter and death in, ii. 383, 388.
- Romey, England, ii. 92, 99, 106.
- Rosias Priory, Lord Kinnaird's seat in Scotland, ii. 352.
- Rowell, the moose-hunter, i. 202.
- Roxbury, Dana's residence at, i. 34.
- Royal Academy Exhibition, ii. 40.
- Russell, Lord Charles, ii. 34.
- Russell, Sir Charles, ii. 65.
- Russell, Lord John, i. 359; ii. 13.
- Russell, William, i. 170.
- Russell, William G., counsel for Dana in suit brought by Lawrence, ii. 312; represents Dana at Washington in affair of English Mission, ii. 373; his telegram to Dana, 374.
- Russell, Sheriff of Roxburghshire, ii. 352.
- Russell & Co., entertain Dana at their houses in China, ii. 192, 195, 213, 221, 226.
- St. Barnabas' Church, London, ii. 41.
- St. Croes, hospital, Winchester, ii. 95.
- St. George's Chapel, Windsor, ii. 17.
- St. Giles' Church, Edinburgh, ii. 351.
- St. James Park, London, ii. 21.
- St. John, John P., ii. 349.
- St. Paul's Cathedral, ii. 48.
- Salem, Mass., political meeting at, 1868, ii. 345.
- Salisbury, England, ii. 99; the Cathedral, 104.
- Sandford, Lake, Adirondack region, i. 147; 148; 149, 150.
- Sandwich Islands, ii. 186.
- San Francisco, ii. 190.
- Saturday Club, Dana's account of, ii. 162; its history, 163; welcome to Emerson on his return from Europe, 359; R. H. Dana, Sr., made an honorary member of, 360.
- Scape-Goat, picture by Holman Hunt, ii. 40, 233.
- Sehenck, Robert C., ii. 362; 368, 369.
- School discipline in New England, i. 2-10.
- Scotland, i. 373; charm of, ii. 353.
- Scott, James, tried for rescue of Shadrach, i. 195-197.
- Scott, Walter, Dickens' description of, i. 32, 350; his appreciation of poetic capabilities of nature, ii. 354.
- Scott, Winfield, nomination as candidate for the presidency, 1852, i. 218; opinion of, as to duration of rebellion, ii. 259.
- Seccomb v. Provincial Insurance Company, ii. 145-147, 176, 248.
- Sebastopol, account of the attack on the Redan, i. 371.
- Sedgwick, Adam, ii. 27, 28.
- Sedgwick, Miss Catherine M., asks Dana to write an article concerning the Somere affair, i. 50.
- Sedgwick, Charles, at Buffalo Free Soil Convention, i. 141.
- Sedgwick, Mrs. Charles, i. 215.
- Sedgwick, John, General, ii. 273.
- Salden, John, monument to, in Temple Church, London, ii. 10.
- Senior, Nassau W., ii. 22, 46, 123.
- Sepoy soldiers, ii. 226.
- Sermoneta, Duke of, ii. 385.
- Sewall, Samuel E., in case of Sima, fugitive slave, i. 185, 188, 189, 191.
- Seward, William H., i. 193; speech in U. S. Senate on Webster, i. 227; estimate of, by Choate and Dana, 227; speech at Albany, 1855, 348; policy of, at outbreak of rebellion, ii. 252; Sumner's opinion of, 253; 258; in Trent affair, 261; 270; conversation with, 272; 273; 274; Dana's letter to, resigning office of District Attorney, 336.
- Sewell, Rev. William, ii. 71.
- Seymour, Horatio, ii. 275.
- Shadrach, *alias* Frederick Jenkins, fugitive slave arrested and rescued at Boston, 1851, i. 179; trial of Robert Morris, charged with aiding in his rescue, 211, 212; rescue of, 216.
- Shaftesbury, Lord, ii. 15, 45.
- Shanghai, ii. 212 *et seq.*; 225.
- Shannon, British frigate, seen by Rufus Choate in Ipswich Bay, i. 259.
- Shattuck, George, ii. 88.
- Shaw, Chief Justice Lemuel, i. 112, 114, 180, 181, 183; refuses writ of habeas corpus in case of Sims, fugitive slave, 186; 274; opinion as to religious freedom in Massachusetts, 353, 354.
- Shaw-Lefevre, Charles, Speaker of House of Commons, ii. 65, 67, 96.
- Shelburne, Lord and Lady, ii. 46, 47.
- Shelburne, Nova Scotia, i. 38-41.
- Shelley, i. 350.
- Shepley, George F., i. 331.
- Sheridan, Charles, i. 35.
- Sherman, W. T., U. S. Army, Mexican war, 336.
- Shirley, Evelyn, ii. 98.
- Shrewsbury, England, ii. 81.
- Sinke, ii. 226.
- Sima, Thomas, fugitive slave, i. 185-195; Dana writes account of his trial for Memoir of Rantoul, 231, 264; ii. 147.
- Simpson, General Sir James, at Sebastopol, i. 372.
- Sinai, Mount, ii. 233.
- Skye, Isle of, ii. 353.
- Slave-power, 1854, i. 298.
- Slavery in the United States, attitude of political parties toward, 1848-1854, i. 122-126; 298-300; effect on, of suppression of rebellion, ii. 275.
- Slidell, John, i. 47; his "Thirty Millions" Bill, for purchase of Cuba, ii. 174; capture on the Trent, 260, 276.
- Smith, F. O. J., i. 351.
- Smith, Gerrit, proprietor of land in Adirondack region, i. 156.

- Smith, Goldwin, ii. 276.
 Smith, John Wilson, i. 2.
 Smith, Joseph, his finding the plates of the Mormon Bible, i. 372, 373.
 Smith, Sydney, ii. 47, 68.
 Snyder, "Tone," guide and hunter in the Adirondacks, i. 149, 151, 152.
 Social ostracism of Free Soilers in Boston, i. 177.
 Somers, brig, case of, i. 47-58.
 Soule, Pierre, and the Ostend Conference, ii. 174.
 Sparks, Jared, i. 32.
 Spaulding, C. W., i. 176.
 Spencer, John C., i. 47, 59, 62.
 Spencer, Philip, midshipman, executed for mutiny on the brig Somers, i. 47-58; conduct towards William Crayne, 58-62.
 Spenser's "Faery Queene," i. 171.
 Spynx, ii. 237.
 Sprague, Judge Peleg, i. 114; refuses to grant a writ of habeas corpus to Sims, fugitive slave, 188; hears trial of Rescues Cases, 196, 208; 223, 228; applied to, for writ to release Anthony Burns, 268; in case of The Orkney, 290; ii. 269; resignation of judgeship, 276; Dana's regard for, 276; his opinion of Dana's arguments, 277.
 Staffs, ii. 353.
 Stafford House, breakfast at, ii. 36; Mrs. Webb's reading at, 44.
 Stanley of Alderly, Lord, ii. 14.
 Stanton, Edwin M., at Buffalo Free Soil Convention, i. 139; ii. 273.
 Stearns, Mr. and Mrs., of Bombay, ii. 229.
 Stedman, ii. 26.
 Steuben, Baron, ii. 339.
 Stevens, Thaddeus, his reconstruction policy, ii. 330.
 Stirling, ii. 354.
 Stoke Pogis, England, ii. 19.
 Stonehenge and Carlyle, lecture by R. W. Emerson, i. 349.
 Stonehenge, ii. 100.
 Story, Judge, as an instructor in law, i. 23, 74; death, 113; Bar meeting in commemoration of, 113; reminiscences of, 114; eulogy by Josiah Quincy before Phi Beta Kappa Society, 1851, 200; his eulogy of Lawrence and Ludlow of the Chesapeake, heard by Rufus Choate, 259.
 Story, William W., crosses the Atlantic with Dana, 1856, i. 360; ii. 110, 385.
 Stowe, Harriet Beecher, ii. 44.
 Stowell, Martin, engaged in effort to liberate Anthony Burns, i. 300 *et seq.*
 Stratford-on-Avon, ii. 77.
 Stuart, Gilbert, i. 76.
 Sturgis, Russell, ii. 110.
 Suchan, city of, Dana's expedition to, ii. 222-225.
 Suez, ii. 233.
 Sumner, Charles, no sense of humor, i. 32, 74; treatment of, by political opponents in Boston, 128; 135; 166; election to the United States Senate, 169, 171, 172, 195; 177, 183, 184, 185; in case of Sims, fugitive slave, 189; 190; 199, 210; Sundays at Cambridge, 1852-1861, 214; in Massachusetts Constitutional Convention, 230; 233 *et seq.*; 247; conversation with, concerning Hillard, 238; 264; describes the pro-slavery influence in United States Senate, 1854, 288, 289; speech at Faneuil Hall, November, 1855, 348; assaulted by Preston S. Brooks, 1856, 358; ii. 9, 45; a member of the Saturday Club, 166, 248; position taken by, at outbreak of rebellion, 252; C. F. Adams, Jr., conversation with, winter of 1860, 252; opinion of Seward, 253; letter to Dana as to office of United States District Attorney, 257; denunciations of Seward, 258; speech on slavery, 259; speech, "The Trent Case, and Maritime Rights," in Senate, January 9, 1862, 261; 265; in the Louisiana question, 276, 278; reconstruction of the Southern States, 330; want of agreement with Dana on reconstruction measures, ii. 331; his eulogy of Lincoln, 331; 333; 339; 340; 359, 360; death, 361; Dana declines to prepare biography of, 361, 363.
 Sumner, George, i. 215.
 Sutherland, Duchess of, ii. 33; entertains Dana at breakfast, 36; at St. Barnabas' Church, 41; 44.
 Suttle, Charles T., owner of slave Anthony Burns, i. 262, 266, 303, 305, 306, 344.
 Sutton, Mannars, precepts for preachers, i. 24.
 Swan, Dr., i. 176.
 Switzerland, ii. 243-245.
 Syle, Mr., of the party with Dana to Suchan, ii. 222.
 Taft, Alphonso, ii. 364.
 Tabâwus Mountain, Adirondack region, i. 147, 149; ascent of, 150, 152.
 Ta Hu, Lake, ii. 224.
 Tai Ping Rebellion in China, ii. 193.
 Taney, R. B., Chief Justice Supreme Court, ii. 267.
 Tatnall, Josiah, Commodore U. S. N., ii. 193.
 Taylor, Bayard, i. 177.
 Taylor, Rosanne, i. 295.
 Taylor, Zachary, effect in Massachusetts of his nomination as candidate for Presidency, i. 131; 165; in Mexican war, i. 334; 335.
 Temple, London, ii. 9.
 Temple Church, services in, ii. 23.
 Tenessee, British frigates, i. 260.
 Texas, annexation of, Webster's course in regard to, i. 173.
 Thackeray, W. M., i. 227; Dana's estimation of his writings, ii. 150.
 Thames River, ii. 3; tunnel, ii. 57.

- Théâtre Français, Paris, ii. 115.
 Thiers, ii. 356.
 Thomas, George H., General, ii. 274.
 Thomas, S. J., in case of Sims, fugitive slave, i. 185, 191; in the Anthony Burns case, 272, 286.
 Ticknor, George, i. 32, 63; 81; his relations with Dana and Sumner after they became Free Soilers, 128; 134, 170, 176.
 "To Cuba and Back" dedicated to the members of the Saturday Club, ii. 163; 172; published 1859, 172.
 Tower, London, ii. 4.
 Trent Park, Middlesex, seat of Mr. Bevan, ii. 55.
 Trenton Falls, ii. 159.
 Tribune, New York, i. 177.
 Trieste, ii. 240.
 Trevelyan, Sir Charles, his successful rule in India, ii. 229.
 Trinity College, Cambridge, ii. 28.
 Trofater, Edward, steward of the Mastiff, iii. 184.
 Trollope, T. Adolphus, ii. 385.
 Trosache, ii. 353.
 Trowbridge, Edmund, i. 1.
 Turner, Sir James, ii. 61.
 "Two Years Before the Mast," publication of, i. 25, 26; success of, 26, 27; revision of, proposed by Horace Mann, i. 117-120; the author's edition, ii. 180, 227.
 Tyler, John, President, escape of, in the explosion on the Princeton, i. 107.
 "Uncle Tom's Cabin" vogue in England, 1856, i. 358.
 "Underground Railway," the station in the Adirondacks in charge of John Brown, i. 156.
 Underwood, Judge, sitting in court to try Jeff. Davis, ii. 340; 341.
 Unitarian meeting at Plymouth, 1849, i. 166; church service and sermon, Brattleboro', Vermont, 1853, 231, 232.
 Unitarian schism in New England, i. 19.
 Unitarians and Universalists, Judge Hoar's story, i. 349.
 Universalist Society, Concord, Mass., anecdote by Judge Hoar, ii. 171.
 Vallejo, General, of California, Dana visits, ii. 190.
 Van Buren, John, name cheered at Buffalo Convention, i. 143; leader of the "Barnburners," 165, 172.
 Van Buren, Martin, candidates for the Presidency on Free Soil ticket, i. 136; 139; 140.
 Varelli or Varell, Luigi or Louis. See Bial, Louis.
 Venice, ii. 241.
 Vernon Gallery, London, ii. 110.
 Versailles, ii. 117 *et seq.*; Dana's sojourn at, 1881, ii. 382.
 Victor, Prince, ii. 103, 110.
 Victoria, Queen, in 1856, i. 358; at the review at Aldershot, ii. 49-60; at Salisbury, 99-104.
 Victoria, Bishop of, ii. 213.
 Victory, Nelson's ship, at Portsmouth, ii. 108.
 Villiers, Henry Montague, Bishop of Carlisle, 1856, ii. 56.
 Walker, Sir Baldwin, ii. 46.
 Walker, D. B., i. 198.
 Walker, James, ii. 152.
 Walpole, Spencer, ii. 13, 34, 65, 67.
 Walsh, Mr., of the party with Dana to Suchan, ii. 222.
 Walton-on-Thames, ii. 110.
 War of 1812, naval actions of, i. 260.
 Ward, John E., U. S. Minister to China, entertains Dana at Macao, ii. 210.
 Ward, Samuel Gray, and the Saturday Club, ii. 162, 164; his recollections of the club, 167.
 Warren, Judge Charles, i. 223.
 Washburn, Governor Emory, i. 313.
 Washington, John Augustus, proprietor of Mount Vernon, i. 108.
 Washington, Mrs., at Mount Vernon, i. 108.
 Washington City, politics of, 1863, ii. 265.
 Waterloo, battle-field of, ii. 381.
 Wayne, James M., Associate Justice of Supreme Court, ii. 267.
 Webb, Mrs., readings at Stafford House, ii. 44.
 Webster, Daniel, his speech, September 30, 1842, i. 42, 43; 112; 114, 122; attitude toward the slavery question, 127; renunciation of the law for politics, 130; 165; annexation of Texas question, 173; defeated at Baltimore convention, 217; death of, 1852, 221; meeting of Boston Bar, 222; funeral of, 223-226; Theodore Parker's eulogy, 226; compared with Ereking and Hamilton by Seward, 227; interference in the prosecution of persons charged with rescuing fugitive slaves, 228; 257, 264, 285, 286; Dana's arguments in court compared by Judge Sprague with his, ii. 277.
 Wei San hills, China, ii. 223.
 Weir, Robert W., his picture The Embarkation of the Pilgrims, i. 103; inspects Allston's Belshazzar's Feast, 104.
 Welles, Gideon, ii. 273.
 Wensleydale, Lord, ii. 36; installation of, as a peer, ii. 36, 48.
 West Farm, Hertfordshire, ii. 55.
 Westminster Abbey, 11, 22, 42, 58; in 1860, 246.
 Weston, —, at Buffalo Free Soil Convention, i. 140.
 Westport, N. Y., i. 146.
 Whampoa, China, ii. 193.
 Wharton, Eliza, i. 354-356.
 Wheaton, Henry, his "Elements of In-

- ternational Law," ii. 281; Dana assumes the editorship of, 282.
- Wheaton, Mrs. Henry, relations with W. B. Lawrence, ii. 283; requests him to prepare 1861 edition of the "Elements of International Law," 283; disatisfied with that edition, 284; Brockhaus agrees to pay her honorarium for his European editions, 285; negotiations with Lawrence to obtain honorarium, 285-287; suit brought by Lawrence for infringement of copyright, 302.
- Wheaton, Miss M. B., corresponds with W. B. Lawrence about Brockhaus affair, ii. 286; signs a memorandum confirming Lawrence in his notes, 287; asks Lawrence to abstain from the publication of her mother's private letters, 300, 368.
- Whewell, William, Master of Trinity, ii. 27; entertains Dana at dinner at Trinity College, 27, 28.
- Whigs of Boston and their relations toward the Free Soil movement, i. 127-129.
- Whig party accepts Fugitive slave law of 1850, at Baltimore Convention, 1852, i. 218.
- Whipple, Edwin P., member of the Saturday Club, ii. 162; 170, 359.
- White, I. L., at Buffalo Free Soil Convention, i. 142.
- White, Richard Grant, ii. 159.
- White Cloud Mountain, China, ii. 202 *et seq.*
- Whitney, General, in Massachusetts Constitution, 1853, i. 244.
- Whittier, J. G., a member of the Saturday Club, ii. 166.
- Wilberforce, Samuel, Bishop of Oxford, ii. 14, 15.
- Wilkes, Commodore Charles, a guest of Saturday Club, ii. 167; affair of Mason and Slidell, 259.
- Williams, General Sir William Fenwick, ii. 46.
- Willie, N. P., extract from his description of Trenton Falls, ii. 160.
- Willoughby d' Eresby, ii. 36.
- Wilmot Proviso, sustained at Free Soil Convention, Boston, i. 172.
- Wilson, Henry, i. 166, 219, 229; in Massachusetts Constitutional Convention, 1853, 233 *et seq.*; 239; his services in convention, 247; influence in the Free Soil party, 252; 339.
- Wilton and Wilton Park, England, ii. 101.
- Winchester, England, ii. 86 *et seq.*
- Windsor, England, ii. 16.
- Winthrop, Robert C., U. S. Senator, i. 165; defeated in election of November, 1851, 210.
- Wood, Sir Charles, ii. 13.
- Wood, Mrs. William Henry, of Shrewsbury, England, ii. 81, 123.
- Woodbury, Judge Levi, issues writ of habeas corpus, in case of Sims, fugitive slave, but remands him, i. 189.
- Woodman, Horatio, i. 341; and the Saturday Club, ii. 162; the founder of the club, 163; his history, 163.
- Woods, Leonard, i. 11, 63; conversation with, 1849, 169.
- Woolsey, T. D., ii. 296, 316.
- Worcester, Mass., Free Soil Convention, 1855, i. 348.
- Wordsworth, Christopher, Canon of Westminster, ii. 43.
- Wordsworth, William, theme of Dana's graduation dissertation taken from poem of, i. 22; 350.
- World, New York, journal, attacks on Dana concerning the English mission, ii. 368, 374.
- Wright's school at Westford, Mass., i. 4.
- Wright, Elizur, his trial in Rescue Cases, i. 216; 220, 221; acquitted, 222.
- Wright, Jack, hunter in the Adirondacks, i. 149.
- Wroxeter, England, ii. 82.
- Wyman, Jeffries, a member of the Saturday Club, ii. 167; 359.
- Yokohama, ii. 217.
- Yonge, Charlotte M., her story, "The Heir of Redclyffe," i. 338; ii. 94, 150; Dana's visit to, 94.
- Yosemite Valley compared with Indian Pass, Adirondacks, i. 147.
- Young, George B., of Halifax, i. 35.
- Yount, the California backwoodsman, ii. 191.
- Yung Ting, nephew of Howqua, entertains Dana at dinner, ii. 207 *et seq.*
- Zoological Gardens, London, ii. 39.

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